

Ontario

REPORT OF THE ROYAL COMMISSION
ON CERTAIN SECTORS
OF THE BUILDING INDUSTRY



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Report of the Royal Commission on Certain Sectors of the Building Industry

VOLUME ONE



QUEEN'S PRINTER FOR ONTARIO



ONTARIO

THE ROYAL COMMISSION

ON

CERTAIN SECTORS OF THE BUILDING INDUSTRY

COMMISSIONER: HIS HONOUR JUDGE HARRY WAISBERG

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SECRETARY: J. W. LIDSTONE

SUITE 309, 145 QUEEN STREET WEST

TORONTO, ONTARIO

MSH 2N9

To Her Honour,
The Lieutenant-Governor of
the Province of Ontario.

May it please Your Honour:

On the 28th March 1973, I was duly appointed a sole Commissioner to investigate certain sectors of the building industry and to report to the Lieutenant Governor in Council on the possibility of unlawful activities and to make recommendations. Having performed the duties as set out in the Order-in-Council, I submit herewith my report.

December, 1974

Harry Waisberg
Commissioner

PROVINCE OF ONTARIO

PROCLAMATION

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

TO: His Honour Judge Harry Waisberg, County Court of the Judicial District of York

GREETING:

WHEREAS in and by an Act entitled 'The Public Inquiries Act, 1971,' it is enacted that whenever Our Lieutenant Governor in Council deems it expedient to cause inquiry to be made concerning any matter connected with or affecting the good government of Ontario or the conduct of any part of the public business thereof or of the administration of justice therein and such inquiry is not regulated by any special law, he may, by Commission, appoint one or more persons to conduct such inquiry and may confer the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as the Commissioner or Commissioners deems requisite for the full investigation of the matters into which he or they are appointed to examine;

AND WHEREAS Our Lieutenant Governor in Council of Our Province of Ontario deems it expedient to cause inquiry to be made concerning the matters hereinafter mentioned;

NOW KNOW Ye that We, having and reposing full trust and confidence in

you, the said Judge Harry Waisberg of the County Court of the Judicial District of York, DO HEREBY APPOINT you to be Our sole Commissioner to investigate and inquire into the activities, practices and conduct in the operations, relationships and commercial affairs of those persons, firms, corporations and organizations engaged in the plastering, lathing, dry-walling, concrete forming and allied sectors of the building industry in Metropolitan Toronto, Hamilton, Ottawa, and such other areas as the Commission may deem necessary as a result of its investigation, and to report to the Lieutenant Governor in Council on the possibility of any unlawful activities that may exist or may have taken place and to make such recommendations in regard to those matters as the Commissioner may deem fit;

AND WE DO HEREBY ORDER that Part III of the said Act entitled 'The Public Inquiries Act, 1971' shall apply to the aforementioned Inquiry;

AND WE DO HEREBY FURTHER ORDER that all Our ministries, boards, commissions, agencies and committees shall assist you, Our said Commissioner, to the fullest extent and that, in order to carry out your duties and functions, you shall have the authority to engage such counsel, investigators and other staff as you deem proper, at the rate of remuneration and reimbursement to be approved by the Management Board of Cabinet;

TO HAVE, HOLD AND ENJOY the said Office and authority of Commissioner for and during the pleasure of Our Lieutenant Governor in Council for Our Province of Ontario.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent, and the Great Seal of Our Province of Ontario to be hereunto affixed.

WITNESS:

THE HONOURABLE WILLIAM ROSS MACDONALD

A Member of Our Privy Council for Canada,

Upon whom has been conferred Our Canadian Forces Decoration,

A Colonel in Our Canadian Armed Forces Supplementary Reserve and One of Our Counsel Learned in the Law,
Doctor of Laws.

LIEUTENANT GOVERNOR OF OUR PROVINCE OF ONTARIO

at Our City of Toronto in Our said Province, this twenty-eighth day of March in the year of Our Lord one thousand nine hundred and seventy-three and in the twenty-second year of Our Reign.

BY COMMAND

James Snow

MINISTER OF GOVERNMENT SERVICES

Order-in-Council
oc-927/73

Upon the recommendation of the Honourable the Attorney General, the Committee of Council advise that pursuant to the provisions of The Public Inquiries Act, 1971 Statutes of Ontario 1971, Chapter 49, the possibility of unlawful activity which may exist or which may have taken place in the activities, practices, or conduct in the operations, relationship and commercial affairs of those persons, firms, corporations and organizations engaged in the plastering, lathing, dry-walling, concrete forming and allied sectors of the building industry in certain Metropolitan, Municipal and other areas of the Province of Ontario be declared to be a matter of public concern.

The Committee further advise that a Commission be issued appointing His Honour Judge Harry Waisberg of the County Court of the Judicial District of York as a Commission to investigate and inquire into the activities, practices and conduct in the operations, relationships and commercial affairs of those persons, firms, corporations and organizations engaged in the plastering, lathing, dry-walling, concrete forming and allied sectors of the building industry in Metropolitan Toronto, Hamilton, Ottawa, and such other areas as the Commission may deem necessary as a result of its investigation, and to report to the Lieutenant Governor in Council on the possibility of any unlawful activities that may exist or may have taken place and to make such recommendations in regard to those matters as the Commissioner may deem fit.

And the Committee further advise that Part III of the said Act be declared to apply to the aforementioned Inquiry.

And the Committee further advise that all Government Ministries, Boards, Agencies, and Commissions shall assist the Commission to its fullest extent in order that it may carry out its duties and functions and that it shall have the authority to engage such counsel, investigators and other staff as it deems proper at rates of remuneration and reimbursement to be approved by the Management Board of Cabinet.

Certified

J.J. Young

Clerk, Executive Council

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Preface

The Royal Commission, to investigate and inquire into the activities, practices, and conduct in the operations, relationships, and commercial affairs of certain sectors of the construction industry, was established by Order-in-Council of the Ontario government dated 28 March 1973. This followed the Speech from the Throne delivered 20 March 1973, which had stated: 'As a result of extensive investigations by our law enforcement agencies, and upon the advice of the appropriate Ministry, my Government will establish a Royal Commission to inquire into the possibility of criminal activities within the plastering, lathing and drywalling sectors of the building industry in Metropolitan Toronto.'

Upon assuming my responsibilities, I appointed A.E. Shepherd, QC, as commission counsel, and N.D. McRae, QC, as associate counsel. Both counsel performed their duties very competently.

I appointed as secretary to the Commission, Staff Superintendent J.W. Lidstone of the Ontario Provincial Police. We then appointed Robert J.P. Hather as registrar and librarian. Both carried out their responsibilities in a capable manner.

Carmen Marrier of the Office of the Commissioner, Ontario Provincial Police, was engaged as senior stenographer, and Jennie Stanford and Sharon Mochner were hired as typists. They performed their respective duties magnificently. Mrs Marrier and Mrs Stanford continued on as my secretaries during the writing of the report. I am indebted to them for the excellent manner in which they typed and re-typed the material as I dictated and wrote.

A decision was taken at the outset that an investigation of this kind must be conducted by police officers with practical experience in proving facts through the examination of hard evidence. We would have no part of rumours, accusations, or innuendos. On that basis, the following appointments were made: M.C. Crawford, staff sergeant, Metropolitan Toronto Police Force; B.E. Dorigo, detective inspector, Ontario Provincial Police Force; E.F. Gibson, detective sergeant, Ontario Provincial Police Force; W.G. Heene, acting patrol sergeant, Hamilton Police Force; L.R. Ormerod, sergeant, Metropolitan Toronto Police Force; H.V. Pelz, detective inspector, Ontario Provincial Police Force; N.A. Perduk, detective inspector, Ontario Provincial Police Force; W.B. Rajsic, detective sergeant, Ontario Provincial Police Force; D.R. Thompson, detective sergeant, Ottawa Police Force; W.G. Thompson, staff sergeant, Metropolitan Toronto Police Force. All of these officers performed their duties in an exemplary manner and in the best tradition of their difficult calling.

I express my appreciation to Touche Ross & Company who handled the enormous task of investigating the books and records of the many persons, firms, corporations, unions, and organizations engaged in the sectors of the building industry under investigation. I would like to mention particularly the following members of that firm who worked closely with the Commission staff: B.W. McLoughlin, CA, Shahid Minto, BA, LLB, MA, P. Wayne Musselman, BCOM, CA, J.B. Pearce, CA, and Donald M. Smith, CA.

All government ministries, boards, agencies, and commissions assisted when requested. I am appreciative of the co-operation and help of the Ministry of the Attorney General, the Ministry of Labour, and the Ministry of the Solicitor General. The Ontario Provincial Police Force and the Metropolitan Toronto Police Force were generous in supplying information and advice from time to time and, particularly, in the assignment of officers from their forces as requested.

I realized that a Commission of this kind would require the advice of a specialist in the field of labour-management relations in the construction industry. The appointment of Professor H.D. Woods as research consultant was very fortunate. He had acted in a similar capacity for the province of Nova Scotia and the province of Manitoba, and was the chairman of the Task Force on Labour Relations which reported to the federal government in December 1968 on Canadian industrial relations. His study paper appears as Appendix A to this report. Hart Rossman and W.G. Jackson acted as assistants to Professor Woods.

I am indebted to those persons and organizations who replied to the questionnaire and presented briefs. These submissions, which were well

prepared and presented, demonstrated the sincerity and concern of those who participated in this way. A notice setting forth the terms of reference and inviting submissions was published in the leading newspapers of Ontario. The list of publications appears as exhibit 1038, appendix 1. At the conclusion of evidence to be led by commission counsel, an opportunity was afforded to others who were entitled to lead evidence. A sample copy of the letter sent, together with a list of those to whom it was sent, appears as exhibit 1037, appendix 2. The bibliography appears as appendix 3.

It has not been easy for me to write this report. The size and complexity of the subject made it hard to compress into reasonable size and logical form. In the first part, I gave anxious consideration to a staggering volume of evidence dealing with a large number of incidents involving many persons, firms, corporations, and associations. The record comprises roughly 13,000 pages of transcribed evidence, 200 witnesses, and 1100 exhibits taken at hearings over a period of one year. In the latter part I gave careful examination of the briefs, presentations, conversations, and study papers in order to appreciate the peculiar problems of labour-management relations in the construction industry. Some, but not all, of the exhibits presented at the hearings are reproduced in this report.

The report is published in two volumes. Volume 1 examines the unlawful activities discovered by the investigation and revealed in the hearings; it includes a discussion of the labour-management problems involved and a list of recommendations and suggestions. Volume 2 contains the study papers, briefs, and some of the exhibits, included as appendices.

In the opening chapter I present an overview of the three sectors of the building industry in the Toronto region to make it easier for the reader to follow my report on the illegal activities within those sectors. It must be borne in mind that I do not purport to comment on any other sectors of the industry and that the report deals only with incidents that occurred in metropolitan Toronto, Hamilton, and Ottawa. The report is based on the evidence that was led at public hearings. Where it appeared that any person had a substantial and direct interest in the subject matter of the inquiry, they were given an opportunity during the inquiry to give evidence and to call and examine or to cross-examine witnesses personally or by counsel on evidence relevant to their interests. All persons against whom there is any finding of misconduct in this report were given reasonable notice of the substance of the misconduct alleged against them and have had a full opportunity during the inquiry to be heard in person or by counsel.

I found some of the evidence to be contradictory and confusing. I sifted through such evidence carefully and selected those portions which ap-

pealed to me as being the most credible. Where the evidence was not contradicted and appeared credible, I simply narrate the incident. Where contradictions or uncertainties appeared, I make reference to the pertinent excerpts from the transcripts of the evidence. There are times when the evidence itself told the story clearly and in such instances I quote from the transcript. In order to comply with my responsibility to report on the possibility of any unlawful activities, I indicate inferences and conclusions that might reasonably be drawn from the evidence.

I would like to compliment the news media for their reporting of the proceedings. Informing the public of what transpired is an important aspect of the Commission.

And finally, the report could not have been written without the support of my wife, who tolerated me during the trying period of writing it.

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REPORT OF THE ROYAL COMMISSION
ON CERTAIN SECTORS
OF THE BUILDING INDUSTRY

1

General description

A subtitle for this report might very well be the theme expressed by Anthony Cesaroni, one of the larger contractors in the plastering and drywall sectors. He stated in his evidence before this Commission: 'The construction business is not a lily-white business, as we all know' (Transcript Vol. 24, page 3368). This report is limited in time to the five-year period preceding the establishment of this Commission. During that period Ontario experienced spectacular urban growth. The construction industry met the unprecedented demand for buildings in any way that it could. It is not surprising in such an atmosphere to find abuses. The fires, shootings, and bombings that ensued were symptoms of a disturbed industry. Effective remedial measures had to be taken. Lawlessness cannot be tolerated. The moral fibre of the community takes priority over urban growth and the quality of life is far more important than new buildings. It still remains to be seen what those new buildings will contribute to our society. A statement that the construction business is not a lily-white business neither explains nor excuses illegal activities. Our investigations revealed many serious illegal activities which are duly reported. To the extent that they are offences per se, they can be adequately dealt with by the law enforcement agencies. To the extent that they are symptoms of a disturbed industry, they must be examined to ascertain the cause.

The report is limited in scope to certain sectors of the construction industry. The Order-in-Council directs my attention to those engaged in plastering, lathing, drywalling, concrete forming, and allied sectors of the building industry. It soon became evident that the Commission would be

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concerned with the following sectors: (1) lathing, plastering, and drywall; (2) marble, tile, and terrazzo; and (3) concrete forming. The report will deal with incidents that occurred in metropolitan Toronto, Ottawa, and Hamilton only.

To provide a better understanding of these sectors, the report begins with a short general description of the construction industry, highlighting the features that distinguish it from other industries. The sectors of the industry in which we are interested will then be examined and the various companies, unions, associations, and persons who operate within them will be described so that they will be known to the reader when referred to in the report.

The importance of the construction industry to our economy was indicated by John H.G. Crispo, director of the Centre for Industrial Relations, University of Toronto, in *Construction Labour Relations*: 'Using the broadest possible definition of the industry, it is probably safe to assert that it accounts for about 25 per cent of all economic activity in the country.'

Some of the distinctive features of the construction industry of Ontario were outlined in the Royal Commission Report of H. Carl Goldenberg (now Senator Goldenberg), March 1962, which described the economic features of the construction industry as follows: (1) Permanent location of product. Buildings are erected on specific sites in contrast to other industries whose products are movable. (2) Temporary location of employment. Work crews are moved from one job-site to another, rather than remaining part of a relatively stable, factory-based work force. (3) The irregularity of employment caused by unstable markets, cyclical fluctuations, and seasonal considerations. The full extent of the fluctuations has never been actually recorded. It is usually taken for granted and referred to in a general way without the actual figures. (4) The trade unions are in a different position here than in any other industries, as recognized by the Goldenberg Royal Commission. 'The construction industry has been described as "a group of related firms whose principal common denominator is the employment of the same labour force and bargaining with the same trade unions."' The peculiar features of the industry, the basic need for an available pool of skilled labour, and the unstable employment relationship account in large part for the type of construction trade unionism which has developed, the major role which it plays, and the form which collective bargaining has taken. The employment relationship of construction workers with any single contractor being generally of a temporary nature, union pressure and other reasons forced contractors to form associations for bargaining on a multi-employer basis.'

The building industry is divided into two main divisions, commercial and residential. Generally, commercial projects consist of buildings used for public and governmental services, industry, trade, and commerce. Residential projects usually consist of housing. In Ontario the commercial division is almost completely unionized, while the residential division, if confined to single-family dwellings, is not. However, the definitions are not that strict. The construction industry operates through a complex system, with owners, developers, general contractors, and specialized contractors. In some cases, contracts are awarded as a result of competitive bidding, while in other instances they are negotiated. Then there are different combinations of owners and contractors, and owners and subcontractors who then become developers. When developers build on their own property they are considered, from the point of view of labour relations, as belonging to the residential sector, even though they may erect upon their property industrial, commercial, or apartment buildings. The distinction between the commercial division and the residential division obviously becomes blurred. Collective agreements provide for a higher rate of pay on commercial projects than on residential projects. Accordingly, the definition, particularly in the metropolitan Toronto region, places many employees in a lower paid category for identical work. At one time, the spread in pay was quite significant, but there has been a general narrowing of the gap as a result of union pressure. Some unions have taken a pragmatic approach and look to organization of the unorganized sector as a first step and equalization of pay rates as a second step. There are some union locals whose members work only in the commercial division and they are opposed to equalization of pay between the two divisions. They insist that they are more skilful. Logically, the building industry should embrace all forms of building as one unit, but tradition and vested interests would make that impossible.

The work in both divisions is divided into a number of process sectors, in each of which the employers are specialty subcontractors and the employees are specialized tradesmen. Thus, in the most general terms, we have lathing, plastering, and drywall firms who employ lathers, plasterers, and drywall mechanics; marble, tile, and terrazzo firms who employ the respective mechanics; and concrete forming firms who employ concrete forming workers. Again, it is not that simple because, as will be seen, there is a genuine difference of opinion about the different trades. The problem is compounded by the radical technological changes that have taken place in the construction industry. The development of new materials and new techniques, has made possible the use of semiskilled and unskilled work-

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ers. Thus, the skilled worker on whom the craft union was based has, in some instances, been replaced by a lower paid worker. This change occurred at a time when Canada's immigration policy made a large force of unskilled labour available. The unions were in a state of flux, new locals were created, trades such as plastering and tile-setting were disappearing, and jurisdictional disputes as to the proper assignment of work took place between the unions. All of this coincided with the large demand for residential buildings. New contractors mushroomed. There were no standards or qualifications to be met. A contractor could start up business with little or no assets by subcontracting all of the work. It has been said that many workers with nothing but initiative and a shovel became contractors. Contracts were taken at any price to keep up the cash-flow. Competition was ruthless. This was a highly volatile situation in which anything could happen.

Our investigation of the construction industry is concerned primarily with the period commencing in 1968; however, to better understand the events of this period it is necessary to refer briefly to the early 1960s. At that time, under the leadership of Charles Irvine and Bruno Zanini, the first serious efforts were made to organize the residential sector. Brandon Hall, located on Brandon Avenue near Davenport and Dufferin streets in the city of Toronto, was a rental hall used for organizational meetings and gave its name to the following unions, which then became known as the Brandon Hall group: Bricklayers', Masons', and Plasterers' International Union of America, Local 40; International Hod Carriers Building and Common Labourers' Union of America, Local 811; United Brotherhood of Carpenters and Joiners of America, Local 1190; Operative Plasterers and Cement Masons International Association of the United States and Canada, Local 117 (Plasterers); Operative Plasterers and Cement Masons International Association of the United States and Canada, Local 117-c (Cement Masons).

There were other unions affiliated with the Toronto and District Building Trades Council who supported the Brandon Hall group. When an organizational strike was called, the Teamster's Union also observed the Brandon Hall unions' picket lines. Some progress was made at that time, but Brandon Hall did not succeed in organizing the residential field. This period of labour organization activity is described in the Goldenberg report and need not be detailed. The strikes of 1960 and 1961 resulted in some collective agreements. However, the contractors who signed found that the increased wages made it impossible for them to meet the competition

from the non-union contractors and the agreements were ignored. New strikes broke out leading to bitterness and violence at that time.

LATHING, PLASTERING, AND DRYWALL

Great technological changes have taken place in this sector of the building industry. Formerly, interior walls were constructed of wooden studs to which wooden lath was nailed and then covered with two layers of plaster and at least two coats of paint. This was a time-consuming and messy process. The wooden lath gave way to the metal lath and the gyproc lath. Then, both the lath and plaster were replaced by drywall finished panels. Finally, the wooden studs were succeeded by metal studs. The former method of interior construction supported many small firms in the lathing and plastering business. At first, in spite of jurisdictional disputes between the lathers and carpenters, the lathing and plastering unions prospered. But then, the technological developments left the lathing and plastering process behind.

It is said that in some respects the lath and plaster process is superior to drywall: plaster is more permanent; it can be repaired; it is more fireproof; it provides a more sanitary control of vermin. If so, these advantages were not sufficient to stop the trend.

Drywall has some distinct advantages: it is less expensive – plastering had become over-priced partly as a result of improper practices by both the companies and the unions; it is a cleaner process; and it saved time because it eliminated the drying period in plastering and painting. The demand for ornamental plastering had disappeared with the development of new architectural styles, and there was a shortage of plasterers, partly as a result of deliberate policy and partly because the nature of the craft did not have the same attraction for young men as did other crafts, such as plumbing or electricity.

Plastering

There was a proud and long established plastering trade in Toronto. The journeymen who immigrated in the early days had a tradition of craft skills behind them. After the 1950s the picture changed somewhat. The number of contractors increased considerably. The volume of building in the City of Toronto, for example, increased from \$55,251,801 in 1950, to \$107,471,474 in 1960. The builders and developers played off one contractor against the other and bargained for the lowest price. The technological

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changes made it possible to employ unskilled labour which was then available through increased immigration. Many new contractors appeared and competed for the work. By 1971 the business had become more competitive. As Naftali Kanner, president of Acme Lathing, put it:

Transcript Vol. 10, page 1172

MR KANNER: Actually our industry is a peculiar industry. The tender industry was honest, straightforward, and people could make a living in it.

MR SHEPHERD: This is 1953?

A: '53, '54. We had competitors like Mr Ballantyne and Son, Jacobs, Dinsmore and a few others. But everybody could make a living in it. It was pleasant to work. We worked hard, and I am sure that everybody was satisfied in the business. But greed and force somehow came in in this business and they transformed the whole business, the lathing business, into something – you had to hire people to regulate the industry.

The contractors were played off one against the other by the developers. The developers 'shopped' bids among the contractors. Many were forced out of business. Others felt that they could survive by merging.

The Ontario Contractors Plastering Association had been in existence for some time. It did not meet the new requirements. The new conditions required something more flexible. The older established contractors began to meet and discuss price-fixing. In 1961, the Metropolitan Plastering Contractors Association was formed to strengthen the position of the older contractors. The following firms were members at that time (listed in parentheses are the firms' chief officers):

Norman Lathing Limited (George A. Warren)

Donaldson-Barron Limited (Norman Donaldson and Ian Barron)

A. V. Hallam Lathing & Plastering Limited (Brian A. D. Holden)

Cesaroni Brothers Limited (Anthony and Sam Cesaroni)

Danilon Plastering

Gambin Brothers Limited (Bruno Gambin)

For one reason or another, after one year a new association was formed known as the **Contracting Plasterers Association of Toronto (CPAT)**. In the meantime, the new firms who were not accepted for membership in the original Toronto Contractors Plastering Association formed the **Metro Toronto Plastering Contractors Association**. The two associations then sponsored the **Toronto Plasterers' Information Centre**.

The confusing array of contractors' associations resulted from their various attempts to unite. The Metro Plastering Contractors Association

was formed to divide up the available jobs among its members. The Contracting Plasterers Association of Toronto continued to designate the work to the member firms and, also, took control of the bidding.

The effective union in the plastering sector was the **Operative Plasterers' and Cement Masons' International Association of the United States and Canada** (AFL-CIO/CLC). **Charles W. Irvine**, as the vice-president in Canada, had authority over **Local 48** (commercial plasterers), **Local 117** (residential plasterers), and **Local 598** (cement masons). **Edward Thompson** was the business manager of Local 48. The three locals were in competition with each other as to jurisdiction. In theory, each had jurisdiction as set out above. In practice, Local 48 competed with Local 598 in the commercial sector, and with Local 117 for developers' work, which in metropolitan Toronto was classified as residential for union purposes. As the plastering trade began to disappear, the locals competed for members in other trades.

Charles Irvine and Edward Thompson took an active part in the formation and conduct of the contractors' associations and co-operated in the plans for allocating the work at fixed prices. Thompson explained to the Commission that the scheme was carried out in the following manner. Local 48 did not enter into collective agreements with contractors who did not belong to the one of the two associations. Outsiders would not be able to secure union workers and they would be harassed by labour trouble. To coerce observance of the arrangement, a bid depository and a 2 per cent defence fund was set up. The association allocated the job to the contractor and the chosen contractor was entitled to estimate his price at cost plus 30 per cent, together with an extra profit known as a 'kicker.' A fund provided for the payment of wages to the men who were pulled off jobs in order to harass non-conforming contractors. For this purpose, Thompson received from the contractors large sums of money for which there was no accounting. But the arrangement did not run altogether smoothly. There were disputes from time to time between the contractors as to who would get what job, and there were occasions when contractors did not abide by the rules.

An example of the effectiveness of the plan was illustrated by Richard W. Nelson. He was the president of John Nelson & Son Limited, a company which had been founded in Toronto by his grandfather in 1885. When Nelson refused to join the Metropolitan Plastering Contractors Association in 1961, Local 48 ceased to supply his firm with workers. He joined and got the men.

The scheme worked well for two years, but then in 1969 it resulted in the conviction on price-fixing charges of eleven contractors (exhibit 600, ap-

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pendix 4): Norman Lathing Limited (Norm Jacobs); A.V. Hallam; Gambin Brothers; C. Strause Limited; O.M. Baird & Company Limited; Hill & Son Plastering Limited; Donaldson-Barron Limited; Cesaroni Brothers Limited; John Nelson & Son Limited; W.J. Crowe Limited; Dixon Construction Enterprises Limited.

The only action on the union's side was that charges were laid against Thompson within the union organization for improperly taking payments of money from contractors. He denied that the charges were justified, but as a result of a hearing in 1966 he was dismissed and expelled from Local 48. (A transcript of the evidence at that hearing appears as exhibit 872.) Thompson was expendable in the interest of apparent respectability.

Lathing

The lathing portion of the sector differed somewhat from the plastering in that it was not so deeply rooted in tradition. The skills of lathing were more easily acquired. By 1969, however, the trade had taken on similar attributes. It was affected by the same pressures of technological development and competition. The leading contractors formed themselves into associations. The **Metro Lathing Contracting Association** was formed in 1968 with the following members (chief officers are listed in parentheses):

A & P Lathing Co. Ltd. (Alex and Peter Palma)

Acme Lathing Co. Limited (Naftali Kanner and Alex Mishevski)

Atlantic Lathing Ltd. (Mario Catenaro)

Ballantyne Lathing Limited (Theodore Ballantyne)

Downsview Lathing Co. Limited (Donato Tullio)

E & M Lathing Company (Joseph Mittl and Joseph Emmer)

Elte Lathing Co. Ltd. (Theodor Schmitz)

Empire Lathing and Insulating Company Limited (Mario Palma)

Fanelli Lathing Limited (Marco DeLuca)

Gemini Lathing Limited (Guiseppe Alessandro)

Marel Contractors (Marco Muzzo)

Puglia Lathing Company Limited (Leo Monopoli)

C. Romanelli Lathing Limited (Cesidio Romanelli)

Suburban Lathing & Acoustics Limited (Domenic Valsi)

D.M.D. Triangle Lathing & Acoustics Co. Limited (Romano DiMarco)

Weston Lathing Company Limited (Joe Paoletto)

The **Wood, Wire & Metal Lathers International Union** (AFL-CIO/CLC) was the leading union in the lathing portion of this sector. **Local 97** (commercial) was organized in Toronto in 1902 and **Local 562** (residential) was granted a charter at Toronto in 1968. Prior to 1965, attempts to

organize the residential sector were not successful. A surplus of labour made it difficult. An attempt to organize was made in 1951 by chartering Local 97B for that purpose. But by the early 1960s that local had ceased to exist. Then in 1965 **Agostino Simone** entered the picture. He had come to Canada in 1954 and in 1958 became a member of Local 97. In the early 1960s he worked as a lather in New York, and then in 1965 he returned to Toronto. At that time many high-rise apartment buildings were being constructed, and the workers on these residential projects were not unionized. Simone volunteered to organize the residential sector of the lathing business. Local 97 was used as the vehicle for enrolling the workers in the first instance. The members of that local, who worked in the commercial sector, resented the admission of those who worked in the residential sector and refused to let them have voting rights. This led to the chartering in 1968 of the new Local 562. Local 97 continued with jurisdiction for the commercial work, while Local 562 was given jurisdiction for the residential sector, which again included the developers. Simone succeeded in forming a union where others had failed.

Local 97 had a collective agreement with the Metro Lathing Contractors Association covering its member employers in the commercial sector (exhibit 285). It also had collective agreements with firms who were not members of the Association, one of the larger being Northdown Lathing & Plastering Limited. Local 562 now entered into collective agreements with the Metro Lathing Contractors Association as well, covering its member employers in the residential sector. These agreements are entered as exhibits 286 (1968 to 1970), 287 (1970 to 1972), 288 (1972 to 1974). There was bitter competition between Local 97 and Local 562 to secure employment for their respective members on building projects. The matter was further complicated by competition between the lathers, generally, and the carpenters. The fact that the original lath was wood, which was nailed to the studs, supported the carpenters' claim, while the development of lathing as an accepted trade over many years supported the lathers'.

An example of the conflict between Local 97 and Local 562 was the large Hyatt House project in 1971. Northdown, with a Local 97 collective agreement, was competing for the job with Cesidio Romanelli, who had a Local 562 collective agreement. The international representative of the union, Ken Weller, was unable to settle the fight between the locals because they both had similar jurisdiction. The competing contractors worked out some arrangement of their own and Northdown completed the job.

The Metro Lathing Contractors Association operated a bid depository

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which gave the illusion of a proper award of building subcontracts. According to Irvine, the jobs were actually allocated on an arbitrary basis by a committee of the Association.

Transcript Vol. 59, pages 8648–9

MR IRVINE: I have here, Mr Commissioner, a document from the Metro Lathing Contracting Association that was formed by the large lathing contractors, probably about five or six of them – I think the five big ones and the rest of them were little fishes. But they at one time in 1969 agreed that they would be a committee or a board of directors, and that board of directors would say which jobs would come under a bid depository. And they worked it that way and it wasn't a case of all jobs being under the bid depository. It was just whatever the committee decided so that if they didn't like the builder they could give him the works.

The contractors sought to exploit the competition between the locals and the trades to obtain favourable collective agreements. Hence, the liberal interpretation given to the residential sector and, as we shall see, the tolerance shown for piecework.

The membership of Local 562 grew from 350 in 1965 to 1400 in 1974. The growth of this local can be attributed partly to its alertness in organizing the drywall portion of the sector as it expanded. But Local 562 agreements provided for residential rates of pay, which were lower than the commercial rates of pay provided for in the Local 97 agreements. There was a difference of between fifty and seventy cents in the hourly rate between the two sectors. It is understandable that contractors would prefer to work under Local 562 agreements when they could. A proposal was made to unite the two locals. **Joseph William Johnston**, who had been the business agent of Local 97, stubbornly opposed the merger. It was not long before Local 97 had virtually disappeared. In 1973 the small remaining membership of Local 97 joined the Carpenters Local 1747 and Johnston was elected as business agent with that union.

Drywall

Drywall began to appear in houses as far back as the early 1950s, but it was not until the early 1960s that it began to be used in commercial projects, and it was only in the late 1960s that it was used in high-rise apartments. By that time, due to the spectacular expansion of high-rise apartments, drywall accounted for 80 per cent of interior construction. It was no problem for the lathing firms to move into the drywall business. Some formed new com-

panies for that purpose. For the unions, it was more difficult. Piecework was the general rule in the home building business. They, therefore, had to face a well-established piecework practice, as well as the ever-present jurisdictional disputes.

The jurisdictional disputes between the carpenters and the lathers, which began in the lathing portion of the sector, were exacerbated by the advent of drywall. Other disputes arose. Once in place, drywall could be joined in two ways, with plaster or tape. The plasterers hung on to their exclusive right to plaster the joints but the taping had to be decided between the plasterers and the painters on a job-decision basis. Carpenters were in a preferred position because of the nature of their work. Most of the work on any project is let out to various subcontractors, but there always remains some basic work of a general nature which must be done by the general contractor himself. Such work usually involves carpenters and labourers. Carpenters' locals take advantage of their preferred position to restrict, by collective agreements, the subcontracting of lathing and drywall to the members of their union.

Piecework is anathema to trade unions. We find, however, that it has been accepted by some locals faced with serious competition. The contractors prefer piecework: they consider that it is necessary where supervision is difficult, and it also allows for cost control. The subject is more fully discussed later in this report. Drywall installations were done, predominantly, on a piecework basis, particularly in the residential sector. Local 562 counts among its members lathers and installers of steel studding and metal lath, who are paid at an hourly rate. It also counts among its members boardmen who work on a piecework basis. Not all of the boardmen joined the union. It is the work of the boardmen to affix the drywall to the studs. The bulk of the drywall piecework in the Toronto region was carried out by an independent group of workers. They earned large sums of money by dint of hard work and were not interested in being organized. We were told that on piecework men earned as much as \$25,000 per year.

The following is a list of the drywall contractors who came to our attention during the investigation. Some of them will be the subjects of detailed reports (owners' names are in parentheses):

A & P Lathing Co. Ltd. (Alex and Peter Palma)

Acme Lathing Co. Limited (N. Kanner and A. Mishevski)

Atlantic Lathing Ltd. (M. Catenaro)

D.M.D Triangle Lathing & Acoustics Co. Limited (R. DiMarco, V. Milani, and D. DiCenso)

Downsview Lathing Co. Limited (Antonio and Donato Tullio)

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Durable Drywall Limited and C. Romanelli Lathing Limited (C. Romanelli, F. Fior, and DelZotto Enterprises)
E & M Lathing Company (J. Mittl and J. Emmer)
Empire Lathing and Insulating Company Limited (Mario Palma)
Fanelli Lathing Limited and Yorkland Drywall Systems Limited (Marco DeLuca)
Gemini Lathing Limited and Cleveland Drywall (Guiseppe Alessandro and Ettore Milani)
Lucky Star Lathing & Insulating Co. Ltd. (Rosario Iori and Emilio Cariati)
Marel Contractors (M. Muzzo)
Northdown Lathing & Plastering Limited (A. Cesaroni, B. Gambin, and N. Donaldson)
Roselawn Plasterers Company (A. Riolino)
Suburban Lathing & Acoustic Limited (D. Valsi)
Suburban Plastering Company Limited (Danilo Marcuz)

Marco Muzzo was one of the owners and the chief officer of Marel Contractors, one of the leading firms in this sector of the building industry. His activities will be described in some detail during the course of the report.

Donato and **Antonio Tullio** owned Downsview Lathing Limited. Danny Tullio had worked in the lathing business for about ten years before working for a time for the Lathers' Union. He then returned to work for Romanelli as a foreman. Shortly thereafter, he went into business with his brother Antonio. They have carried on business as partners since 1970 and in 1972 employed about sixty men.

Marco DeLuca was another of the larger contractors in this sector. He was president of Yorkland Drywall and Fanelli Lathing. Both had collective agreements with Local 562.

Guiseppe Alessandro and **Ettore Milani** owned Gemini Lathing, another contractor in this sector. Alessandro, as we shall see, was active in the association.

Naftali Kanner was the president of Acme Lathing, which he formed in 1954 in partnership with **Alex Mishevski**. Their work was predominantly residential and non-union. They did some commercial work and in that respect had an agreement with Local 97 for the lathing, while the Carpenters installed the drywall. In the spring of 1968, Acme signed its first agreement with Local 562. They had about 150 employees at that time. The Local 562 agreement permitted Acme to perform commercial work for developers and to let piecework contracts. At this time, **Stanley Sosin** became associated with Acme and took over active management of the business.

Norman Donaldson had been a partner in Donaldson-Barron and in January 1971 became part owner and officer of Northdown Drywall and Construction Limited.

Anthony Cesaroni began to work in lathing and plastering in 1954. In 1959, he commenced business in partnership with his brother Sam, under the name of Cesaroni Brothers. They were soon counted among the leading contractors. Anthony Cesaroni was among those convicted 20 November 1969 of a violation of the Combines Act. Northdown Lathing & Plastering Limited was incorporated in 1970. The owners were Cesaroni Brothers, Norman Donaldson, and Bruno Gambin. Northdown was one of the largest contractors in the sector. Local 97 supplied the lathers to instal metal studs, and Local 562 supplied the boardmen to instal drywall. The presence of both locals caused friction. Although Northdown was not included in the Metro Association collective agreements, Cesaroni and other representatives of the company attended meetings of the Association and took part in the discussions and activities.

Cesidio Romanelli came to Canada in 1954. He worked as a lather for two years; in 1957 he went into business as a partner in Star Lathing and in 1963 formed C. Romanelli Lathing Limited. He started to work with DelZotto Enterprises Limited in 1957 and did all of their lathing. His activities are referred to in this report. Figure 1 (exhibit 454, appendix 5) is a chart showing the ownership of the Romanelli companies.

Frank Fior worked as a business agent with Local 562 until 1968, when he became a partner with C. Romanelli Lathing. The partners at that stage were Romanelli, Fior, and DelZotto. There was evidence that Agostino Simone either had or was to get an interest in the company. That will be discussed later. DelZotto Enterprises is a large development corporation, operating many companies in the construction industry. **Angelo, Elvio, and Leo DelZotto** were the principals in the corporation. DelZotto owned a 30 per cent interest in C. Romanelli Lathing Limited and Durable Drywall Limited.

Romanelli attended the meetings of contractors in 1971 and 1972 which, according to him, were called by Simone. There was discussion about payment of \$1000 a month to Simone to provide men for the industry. There was some discussion about employing men to regulate the industry.

In 1972, Romanelli began to seek outside jobs. He had previously brought some new employees into the organization. The circumstances and implications of this new element are more fully discussed later. There is some suggestion at this time about new partners in the business and this coincides with the new thrust for outside business. His efforts to obtain this outside business were not at all successful. His bids, however, did have the

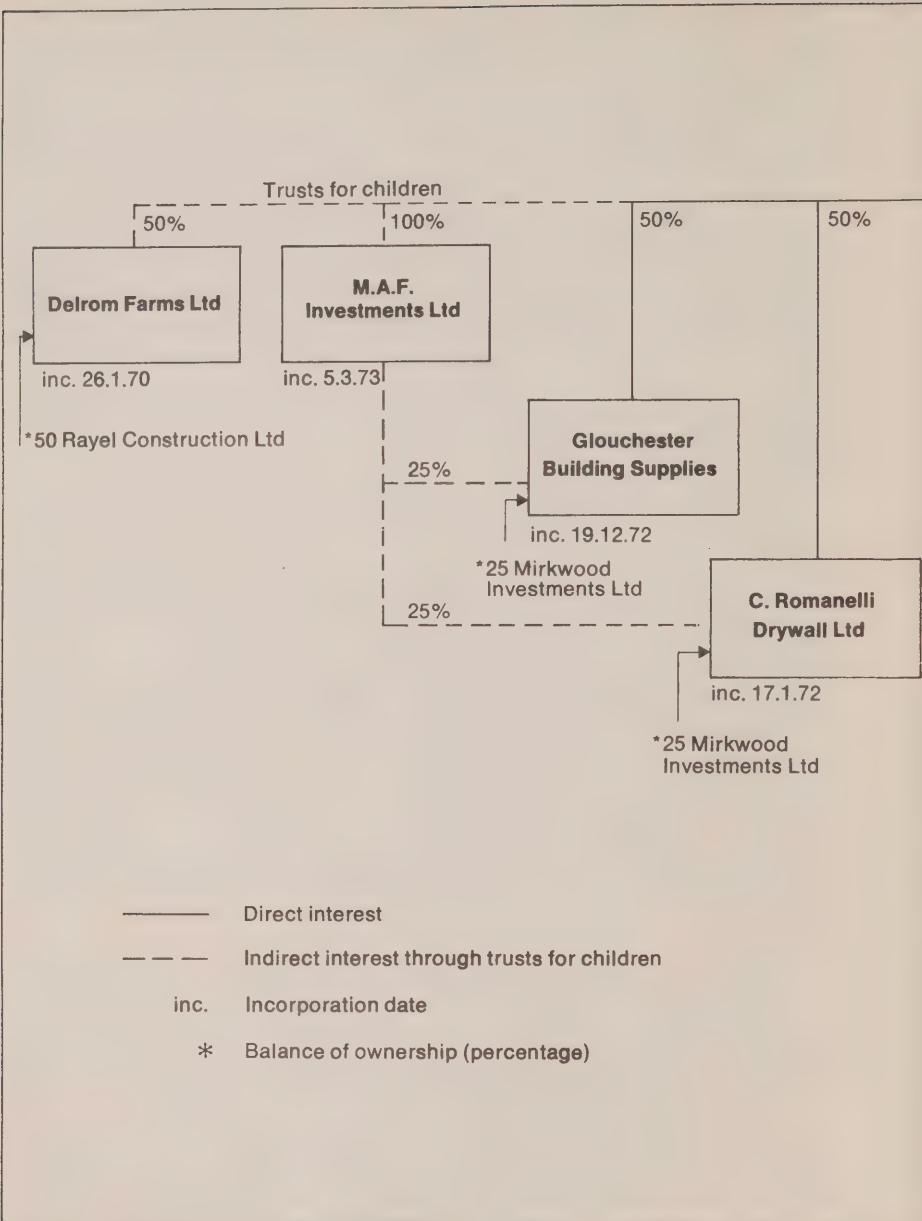
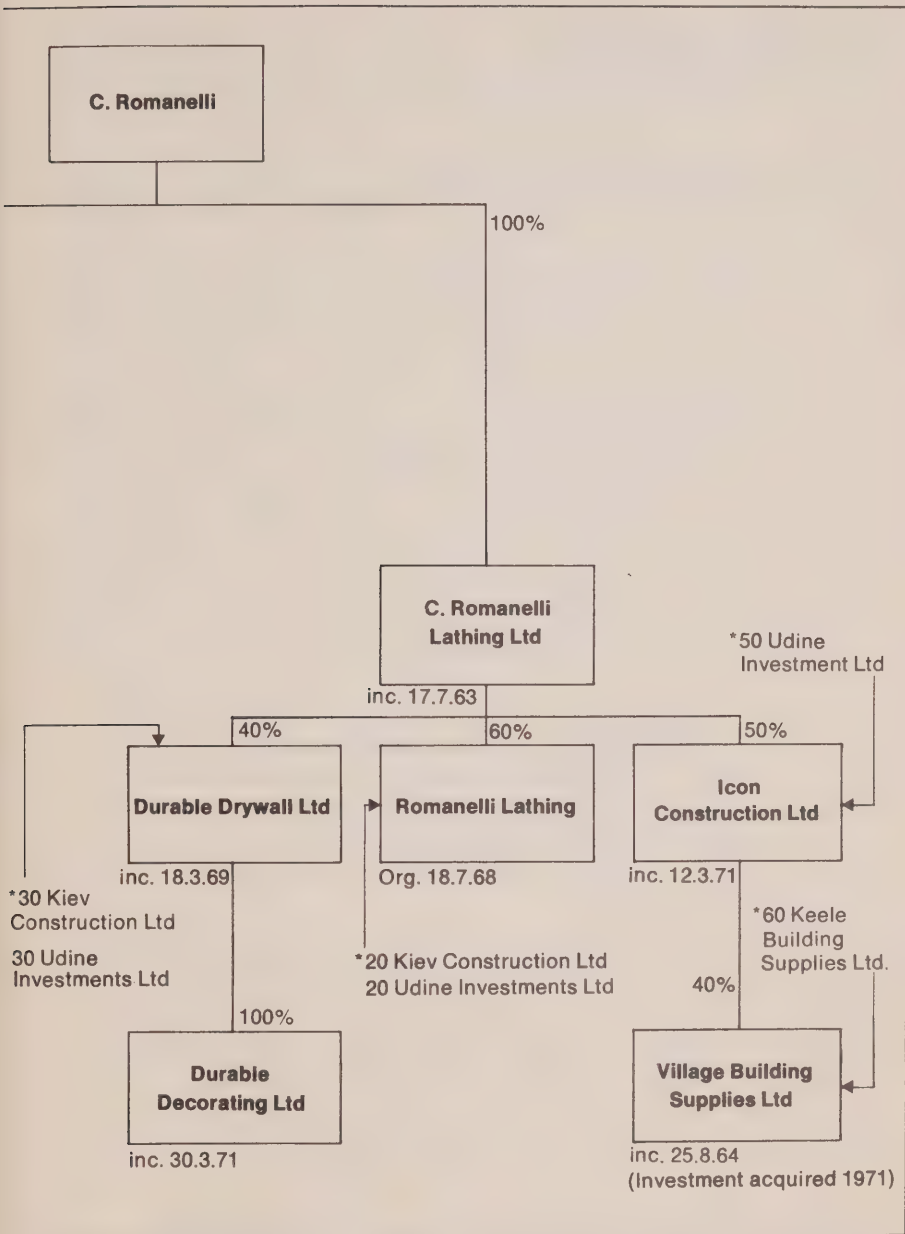


Figure 1 (appendix 5 exhibit 454)
Romanelli's companies



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effect of causing the other contractors to reduce their prices, which contributed to the instability of this sector.

Another member of the Metro Lathing Association was D.M.D. Triangle, owned by Romano DiMarco, Vittorio Milani, and Domenico DiCenso.

Northwest Plastering Limited was another large plastering company. It was owned by Vittore Contatto and Mario Toneguzzo, and managed by Ross McKenzie.

I have to this point been describing the firms carrying on business in this sector. The unions, as we shall see, were heavily involved with these firms. Prominent in the activities of the Plasterers' Union were Angelo Burigana and Emil Lubinski.

Angelo Burigana was one of the early members of Local 117. He joined in 1957 when it was organized. He was soon appointed a business agent and assisted Irvine in the organization. In October 1957, the local signed its first collective agreement. There appeared to be very little difficulty in organizing. Burigana was re-elected as a business agent from time to time, and remained throughout the years, even during the periods of trusteeship. He continued as a business agent from 1957 to 1973.

Emil Lubinski was elected president of Local 117 in 1968. He soon became disenchanted with Charles Irvine, his superior.

Transcript Vol. 28, page 3969

MR MCRAE: How did you get along with the union and Mr Irvine?

MR LUBINSKI: For a while I got along fine, but later on when I found out everything was not quite so honest as I thought a union should be, then we had a misunderstanding – with Charlie Irvine. Then I believe in 1969 or 1970 – COMMISSIONER: Just give us a little more detail. You found it was not so

honest. What was not so honest?

MR LUBINSKI: We have a rule, Your Honour, in the union that Saturdays are supposed to be time and one-half overtime; Sundays double. Some contractors were allowed to work for straight time and some contractors were insisted to work and pay the double time and so on.

Q: The contractors were not being dealt with with an even hand by the union, is that what you are saying?

A: Actually, the contractors, as far as I was concerned, the contractors and Charlie Irvine ran the union. I had nothing to say as president.

Lubinski was of the opinion that one of the contractors, Belmont Construction Co. Limited, was being discriminated against. He eventually

complained to the Ontario Department of Labour. Irvine expelled him from the union. In 1970, he went to Local 31, which was primarily a marble, tile, and terrazzo union, and brought with him some plasterers as members. He negotiated contracts with Belmont and Northwest Plastering.

Most of the books and records of Local 117 have disappeared. Burigana stated that when he left in 1973 the books were in the union offices at 1801 Eglinton Avenue West. He last saw them in the physical possession of Charles Irvine when he was in charge as the sole trustee of the union. This trusteeship followed a nomination meeting at which members opposed to Irvine and Burigana were nominated for office.

Emil Lubinski, who had been elected president in 1968 for a three-year term, was in office at the time and explained what took place. The nominations were declared invalid under circumstances which showed little regard for natural justice. Complaints were forwarded to the international president, Joseph Power. This resulted in a hearing which recommended an impartial, temporary trustee to conduct the elections. The recommendation was ignored and Charles Irvine was confirmed as the sole trustee of the local. Exhibit 787 is a brief prepared on behalf of the members. The members finally gave up in 1971 and joined the Cement Masons' Local 31. Irvine and Burigana continued the charade of operating Local 117 with 15 members who remained from a membership of 1000.

There were a number of meetings late in 1971 and early in 1972 of the large contractors in the lathing and drywall sector, particularly Acme, Northdown, Empire, Durable, Yorkland, and Marel. Simone, the business agent of Local 562, took an active part in these meetings. They were concerned particularly with prices. The contractors did not trust each other. They discussed unit prices for the boardmen. There was a suggestion by Muzzo of joint ventures and there were discussions about mergers of companies.

When the workers became organized into Local 562 wages went up. At the same time, the competitive bidding kept the contract prices low. The contractors felt themselves caught between the two forces. At that time a small group of contractors, namely Fanelli Lathing, Yorkland Drywall, Acme Lathing, and Marel Contractors, seemed to get preferential treatment by the business agent Simone. If this was true, or believed to be true, that again would cause frustration and unrest.

MARBLE, TILE, AND TERRAZZO

The employers in this process sector of the building industry consisted of

many small contracting firms. We found that, particularly in the residential sector, many owners were also workers, which meant that these firms were not eligible for union organization. Accordingly, a large portion of this sector was and remains non-union. Technological developments and changing building styles reduced the demand for marble, tile, and terrazzo installations. Marble was seldom specified, glued plastic tile was often substituted for the porcelain tile, and in many instances newly developed floor coverings replaced terrazzo. We were told, for example, that the cost of tile for an average bathroom was reduced from \$150 to \$60. The drastic reduction in the volume of work greatly affected the stability of this sector. As the work decreased in the commercial sector, the unions showed greater interest in the residential sector. The tension increased.

At this time it appeared to be a fairly common practice between unions and employers to agree on voluntary recognition pursuant to the Ontario Labour Relations Act, section 15 (3). In such cases, the employers expected that after the signing of the agreement the union would then proceed to organize the men. In fact, the agreement was open to be challenged pursuant to section 52 of the act because at the time the agreement was entered into the union was not entitled to represent the employees. The contractors complained that the unions made no effort to organize their employees as expected when the agreement was made. At first it seemed strange that the union would have neglected to organize the workers, but as further facts emerged, it became more understandable.

The **Urban Development Institute** was formed to represent the builders in the Toronto region. It was bound by a collective agreement with the Toronto Building Trades Council. This arrangement restricted subcontracts to those firms who had collective agreements with unions who were members of the Council. The strength of the union in negotiating through the Institute was affected by its total representation among the employees. Hence, each agreement, at least until set aside by the Board, was of some benefit to the union. The union had nothing to lose in taking a voluntary recognition regardless of the final outcome. To the subcontractor the agreement was necessary to obtain work with members of the Institute.

The **Toronto and District Marble, Tile and Terrazzo Contractors Association** was the official association of the leading contractors in this sector. The Association was formed to negotiate collective agreements for the member firms. This eliminated individual bargaining in which the weakest employer usually set the pattern for the entire sector. The Toronto Association continued until 1971 when the Provincial Guild was formed. It now negotiates for the sector on a province-wide basis. There is also a

parent National Guild which is not concerned in labour-management relations. **Olvino DeCarli** was president of the Toronto Association and the Ontario Guild, as well as a director of the National Guild. His firm, Connolly Marble Mosaic and Tile Company Limited, was among the largest subcontractors in the field.

The **Toronto Building & Construction Trades Council** which, until 1974, was managed by **Alex Main**, admits as members only those unions with parent affiliation to the AFL-CIO. These unions represent the majority of the union employees in the construction industry in Ontario. Locals 31, 56, and 598 of the marble, tile, and terrazzo unions were members of the Council. The Council was formed following provincial legislation in 1966 which provided for the formation of councils of unions.

Exhibit 496 is the form of collective agreement which was in force between the Toronto and District Marble, Tile, Terrazzo Contractors Association and Local 31. Article 1(h), which appears as appendix 6, provided for a trade committee of association and union representatives to screen new contractors. It was common knowledge in the industry that the smaller companies were not admitted to membership in the association. While DeCarli maintained that new contractors were never screened, he did admit that the association protected the industry from incompetent operators by advice to the union. This could only mean that the union would then refuse an agreement.

Danilo DeMonte was the president of the Provincial Conference of the marble, tile, and terrazzo unions. He had advanced from business agent of Local 31. The Conference was the parent agency, provincially, for **Local 31**, the Mechanics, **Local 56**, the Helpers, and **Local 598**, the Cement Masons.

Chester DeToni had been the business agent of Local 56 since 1963. The local signed collective agreements only with those employers who had agreements with Local 31. Unlike Local 31, they negotiated with individual contractors.

Frank Amis became the business agent of Local 598 in 1972, under circumstances which are discussed later in the report. This local has a collective agreement with the general contractors section of the Toronto Construction Association dated 30 December 1971, covering 168 employers and 700 employees.

The effect of the collusive arrangements between the employer organization and the union was revealed in the experience of Mercury Terrazzo Limited. **Gino Da Re** was the owner of Mercury Terrazzo Limited which he founded in 1963. The company handled small residential projects with

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non-union workers. By about 1967, the business had grown to the extent that it required union workers. Da Re had begun to bid on public and commercial projects. The general contractors were bound by agreements to deal only with such subcontractors as had collective agreements with trade council unions. Da Re did not qualify.

In order to correct the situation, Da Re then approached DeMonte to negotiate an agreement with Local 31. He did not succeed. He knew that other firms were experiencing the same difficulty and he arranged to bring them together to form the **Metro Marble, Tile and Terrazzo Association** with the following officers: president: Gino Da Re, Mercury Terrazzo Limited; vice-president and secretary: Mario DeStefano, Bloor Terrazzo Tile and Mosaic Limited; executive member: Bruno Tonelli, Continental Tile; executive member: Donald L. Paolini, Paolini Tile and Marble Company Limited. Exhibit 531 is a copy of the constitution and a list of the members of the association. The membership list appears as appendix 7.

On 7 February 1969, an agreement was entered into between the Association and Local 31 (exhibit 497). At this time, the workers should have been so organized as to prevent the invasion by a competing union. But DeMonte was already involved with a competing contractors' association. He apparently met both obligations by doing nothing. Then, within the one-year period, pursuant to the Labour Relations Act, the Canadian Union of Construction Workers Local 1 under John Meorin successfully challenged the validity of the agreement. They had stepped in, organized the workers and applied for certification.

John Meorin was the secretary-treasurer of the Bricklayers', Masons' Independent Union of Canada, Local 1. This union was organized in 1960. In 1962, Meorin was elected business agent. This union is not to be confused with the Bricklayers' Union, Local 2, which had existed for many years and confined itself to commercial projects. As a Canadian union, Local 1 was not eligible for membership in the Building Trades Council. In order to be more useful, it required other trades. Hence, the union changed its policy as well as its name, and on 8 December 1968 became known as the **Canadian Union of Construction Workers Local 1**. It was, as we have seen, instrumental in challenging the collective agreement between Local 31 and the Metro Association. A copy of the intervention appears as exhibit 760. Exhibit 758 is a list of the companies for which Local 1 applied for certification. Exhibit 759 is the decision of the Ontario Labour Relations Board with reference to the Metro Association and Local 31 agreement.

The employers were outraged. A Local 1 agreement would not qualify them for the large public and commercial projects. They felt betrayed by

Local 31 when it was unable to defend its position before the Labour Relations Board. Local 1 became duly certified, but then was unable to negotiate collective agreements with the employers. The companies could only lose by such an agreement and the workers preferred no agreement to strike action. The Metro Association was seeking a Building Trades Council Union. They then negotiated with the Plasterers' Union, Local 172, a Trades Council union under Brian Yandell, but nothing came of it.

Danilo DeMonte insisted that Local 31 had acted properly. According to him, reasonable efforts were made to organize the men and carry out the agreement with the contractors' association as expected. On his suggestion, the association hired **Ross Taylor** who was then an officer of Local 31, to contact the workers. Taylor has since become a business agent with Local 31, having been so elected in October 1972. He denied having been employed to contact the men and stated that his sole function was to attend at building projects to promote work for Metro members.

It might be useful at this time to say a little more about the leading persons in the Metro Association. **Donald L. Paolini** gave evidence at the hearings. Although this firm had been in business for forty years, it was excluded from commercial work. His application to DeMonte for a Local 31 agreement, as well as his application for membership in the Toronto and District Marble, Tile, and Terrazzo Contractors' Association, was in vain.

Mario DeStefano had started in the tile business in 1954. As a small contractor with a few steady customers, he was able to carry on a non-union operation without being disturbed. His customers built high-rise apartments, and were members of the Urban Development Institute. He joined the Metro Marble and Tile Association in order to negotiate an agreement with Local 31.

Bruno Manias was the president of Time Terrazzo and Tile Limited. It was a small operation in the tile and terrazzo field. The builders for whom he worked were bound by a Toronto Building Trades Council agreement. He joined the Metro Association to get a collective agreement with Local 31. He later signed a collective agreement with Plasterers' Local 172.

Bruno Tonelli of Continental Terrazzo and Marble Co. Limited had a somewhat different experience. He did not apply for membership in the Toronto and District Association. In 1968, he sought to achieve a Local 31 agreement which he finally obtained in 1969. While he understood that his agreement covered both commercial and residential projects, he was disappointed to find that he was listed with some builders but not with others. His access to projects was limited.

Eventually, in May 1971 Da Re signed a collective agreement between

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his own company and Local 31. It was a condition of the agreement that he give up commercial work. He was dependent on Local 31 for men and he continued to have trouble until he secured the co-operation of DeMonte under circumstances which will be discussed later in this report.

CONCRETE FORMING

Concrete forming involves labourers, cement masons, carpenters, and steelworkers. Having four trades involved in one operation led to a conflict between those who believed that each of the trades should be organized into its own union and those who believed that because of the technological developments in concrete forming a new trade had emerged.

A new development in the method of construction in the concrete forming sector began in the late 1950s. It is referred to either as the flying form system or the gang system. The former comes from the fact that the form is moved intact, and the latter from the fact that the workers make up a team. The essence of the method is that a supporting structure can be lowered from the form by the use of jacks and then re-used as required in the construction of a building. These forms replaced the old wooden forms which had to be re-built each time. The new technique did not require skilled trades. The workers received on-the-job training. The cost of concrete forming, which is the main component of high-rise apartments, was spectacularly reduced. Concrete forming became a key sector in the industry.

Local 598 is basically a cement masons' local within the International Union of Plasterers. The local is interested in concrete forming because cement masons participate in the process. It did not, however, seek to enroll members from the other trades involved in concrete forming. Charles Irvine, as we have seen, was an international vice-president of the Plasterers' Union and the only Canadian on the International Executive Board. **Anthony Mariano** became a member of Local 598 in 1946. He held offices in that local for many years and in 1958 became an international representative. By arrangement, Irvine supervised the two Plasterers' locals in Toronto, namely Local 117 and Local 48. Mariano looked after the cement masons and the outside plasterers' locals in eastern Canada. William McMynn of Vancouver, also an international representative, was in charge of western Canada.

Raffaele D'Alessandro became the business manager of the Operative Plasterers' and Cement Masons' Union Local 598 in 1966. He remained in office continuously and was last re-elected in May 1972 for a further three-year term.

Frank Amis had been a member of Local 598 in the early 1960s. He became a business agent and then was expelled by the union. Beginning in 1971, he took various steps to be re-admitted to membership in Local 598, and finally, on 21 August 1972, when charges were laid against the officers of that union, the members voted Amis in as acting business manager to complete the unexpired term of Raffaele D'Alessandro. There was conflict between D'Alessandro and Amis from the time that Amis re-appeared in 1971. It culminated in D'Alessandro being expelled from the union, and Amis taking over as acting business agent. The details of this conflict and the ensuing developments will be discussed later in the report. Local 598 had been formed with the assistance of Local 48. Local 48 had jurisdiction for two trades – plasterers and cement masons – and as the number of cement masons increased, it was felt that another local would be desirable.

We have seen that in the early 1960s, Irvine, with the assistance of Zanini, attempted to organize the residential sector of the construction industry. The concrete forming sector was, of course, included in these efforts to organize by the Brandon Hall group of unions. The improper activities which occurred at that time led to the appointment of the royal commission under Carl Goldenberg.

Bruno Zanini figured prominently in the labour movement at the time. In 1962, he became an international representative of the Labourers' Union. His conviction on 20 December 1963 led to his dismissal. By 1964, the union workers in the residential sector had drifted away. Then in 1965 Irvine launched a new effort confined to the concrete forming sector, but again was not successful.

An application by the Carpenters Union for certification in 1965 was not successful, as the classification of the men was not accurate. Under the auspices of the Toronto Building Trades Council, there was formed the **Council of Concrete Forming Trade Unions**, comprised of **Labourers Local 506** (Business Agent Tommy Neal); **Carpenters Local 1190** (Business Agent Robert Reed); **Masons Local 172** (Business Agent Tony Mariano); **Iron Workers Local 721** (Business Agent Tony Michael). Further attempts at organizing the workers were not successful. Then in 1968 Gus Simone of the Wood, Wire and Metal Lathers International Union, through Local 562, with the assistance of Zanini and under the guidance of Irvine, began to organize the concrete forming workers into a single union. The contractors formed the **Forming Contractors Association of Metro Toronto**. DiLorenzo Construction Limited co-operated with Local 562, and on 4 November 1968 an agreement was signed (exhibit 918).

Nicola DiLorenzo was of the opinion that concrete forming was in itself a trade and he, therefore, opposed the organization of the workers into

different trades. He actively assisted in the organization of his employees which resulted in the certification of Local 562. DiLorenzo was at one time the largest contractor in the concrete forming field. The business, begun in 1958, was owned by Nicola and John DiLorenzo, and made extensive use of the flying form system. Nicola DiLorenzo said it reduced his cost by 50 per cent. He explained that a team consisted of 15 to 20 men composed of carpenters, rod-men, cement masons, and labourers. They all worked together in each trade as required from time to time.

Leader Masonry & Forming Limited, Fran-Kiri Forming Ltd., and other competitors of DiLorenzo, avoided Local 562 to keep away from him. They signed an agreement with the Concrete Forming Council of Unions dated 8 November 1968 (exhibit 919). The Council agreement provided for classification of trades as carpenters, rod-men, cement finishers, and labourers. The Local 562 agreement (exhibit 918) divided the workers into classifications A, B, C, and D. Simone explained the four classifications, A, B, and C being the more skilled, and D the least skilled, which included the labourers. Charles Irvine stated that in the organization of the concrete forming sector he was available to Simone and Zanini in an advisory capacity. The organization was carried on by Simone and Zanini. Simone had seen concrete forming organized as a single trade in New York and felt that it could be done in Toronto.

In 1969 the Labourers' Union Local 183 joined the Concrete Forming Council to organize the concrete workers. **John Carlo Stefanini** had been hired by the **Labourers' Union Local 183** as an organizer in December 1960. By 1969 he had become business manager and secretary-treasurer. It was then that Local 183 became interested in the concrete forming workers. Local 183 was concerned with the labourers in the commercial sector while Local 506 was interested in the labourers in the residential sector. Local 506 was also a member of the Concrete Forming Council.

In 1969, about 90 per cent of the concrete forming workers were represented by Local 562 and about 10 per cent were represented by member unions of the Forming Council. Stefanini felt that since the Lathers' International was one of the smaller building trade unions, it was less able to represent the concrete forming workers than was the Labourers' International. His opinion was shared at the international level.

In January 1969, Stefanini discussed with Simone the possibility of taking over the men who were at that time members of Local 562 in the concrete forming sector. Since Local 562 had been organized by Simone and Zanini, Simone responded by indicating that he would have to discuss the matter with Zanini. There was a second meeting in February 1969

where both Simone and Zanini indicated that they were in favour of a transfer or merger. Up to this time, the Labourer's Union Local 506 held the necessary jurisdiction, but as a result of a conversation between Michael Reilly, the president of Local 183, and Peter Fosco, the president of Labourers' International Union of North America, Local 183 was given jurisdiction for the residential sector as well.

At that time, the membership of Local 183 numbered about 3000. It is now, in 1974, about 6000. The only proper way in which Local 183 could take over the membership was for Local 183 to sign up the workers, and for Local 562 to give up its position. It was agreed that Simone and Zanini would assist in signing up the men on behalf of Local 183. Stefanini found, however, that Simone and Zanini were dragging their feet and the reason for this will become apparent in the chapter on payments. Zanini was not pleased with the proposed transfer and at a meeting on 1 June 1969 he was able to convince the men that it was not in their interest to be transferred to Local 183. He succeeded at that time in having the men organize themselves into what became known as the **Canadian Concrete Forming Union 1**, with Bruno Zanini as president, John D'Alimonte as vice-president, and Enzo Ragno as secretary-treasurer.

Subsequently the Ontario Labour Relations Board found that Local 562 had been improperly certified because of the organizing assistance of the DiLorenzo companies. After the Canadian Concrete Forming Union 1 had been formed it called a strike and the DiLorenzo group were obliged to sign an agreement. Then, in August of 1969, the Concrete Forming Council called a general strike. At this time, the council received financial support to the extent of \$118,148.30 to finance their work stoppage, and spent an additional \$50,000. Finally, on 1 December 1969, the council was successful in terminating the Canadian Concrete Union agreement by an application to the Ontario Labour Relations Board which held that it was not a properly constituted union. That decision is filed as exhibit 924.

Meanwhile, from 30 August 1968 to 20 February 1969 there occurred a number of violent incidents. In response, the Ontario Provincial Police, together with the Metropolitan Toronto Police, launched a joint task force to investigate, called Project B. Project B was launched on 5 March 1969, and the investigations by the police brought these violent incidents to a halt. The findings of the investigators at that time were not conclusive. The incidents are described later in this report.

The Building Trades Council was opposed to Local 562 because the Council wanted the men organized on a craft basis. The opposing unions, who were members of the Building Trades Council, brought charges before

the Council. A hearing was held and Local 562 and Simone were found guilty, but by that time Local 562 had withdrawn from the field. Local 562 succeeded in organizing where the Council had failed because the contractors preferred to deal with one union. The same principle applied to the Labourers' Union Local 183. Alex Main, the manager of the Building Trades Council at the time, while maintaining his belief in the craft-union principle, acknowledged that in practice it was acceptable to have Local 183 proceed with the organization of the men. He warned, however, that the final decision had not yet been made. The Council was interested in getting each craft organized into its own union. It also opposed the Concrete Forming Local 1 on two grounds. Firstly, it was an industrial union which ignored the crafts. Secondly, it provided a choice between an international union and an independent union. In Main's opinion, the creation of competition in seeking to organize the same group of workmen, was not a good thing. Dual unionism could not be tolerated.

In the agreement with the apartment builders after the Council's work stoppage in August 1969, the concrete workers were excluded from the agreement so that they could continue with Local 183. The concession to apartment building at residential rates became known as the Main Formula, which was adopted in the agreement with the Metropolitan Toronto Apartment Builders Association. Local 183 was thereby placed in a position to make this concession to the employers with whom it negotiated.

There were a number of employers who had agreements with the Forming Council when Local 183 withdrew. In order to clear the decks for new agreements, they formed new companies. Some contractors who gave evidence considered this to be a clever device. They indicated that it was common practice in the construction industry. It may have been used to the advantage of Local 183, but it should be noted that it was also used on other occasions to frustrate union organization.

Now, the agreement with Local 562 having been invalidated by the Ontario Labour Relations Board and Zanini's Canadian Local 1 having been declared not to be properly constituted, the way was open for Local 183, and it proceeded to organize and was successful in signing up most of the concrete workers. At that time, Local 183 was a member of the Council. It left the Council and proceeded to organize on its own. If it had remained with the Council it would only have been entitled to enroll the labourers and not the other crafts. On its own, it acted as though concrete forming had become a new craft in the construction industry. The concrete forming workers were now united in the Labourers' Union, Local 183, subject to the indication that the question of separate trades has not yet been settled.

The situation is summed up in the evidence;

Transcript Vol. 49, page 7178

MR SHEPHERD: After that series of events which you have described, Local 183 now represents, and has for the past two years or more, virtually all of the concrete forming workers in the residential field?

MR STEFANINI: Yes, sir.

Zanini and Irvine did not give up easily, and before long they appeared on the scene with Local 733 and again made an unsuccessful attempt to organize the concrete workers.

James Dawe, the president of Dawe Forming Company Limited, gave evidence. He appeared to be very knowledgeable in the concrete forming field. He was at one time president of the Lathers' Union Local 97 (commercial) and he worked with larger concrete forming contractors such as DiLorenzo and Leader. When Local 562 succeeded in organizing in 1968 he could see the weakness of that union and expected that any agreement would wind up with the Building Trades Council. He did not have too much confidence in the integrity of Simone and Zanini. He advised negotiating with the Concrete Forming Council at that time. He withdrew from the Contractors' Association when his advice was not followed. According to Dawe, the contractors preferred to negotiate with Local 183. It gave them a single union for all the workers, they were impressed with the competence of the business manager, Stefanini, and expected that through Local 183 they would get stability in the industry, as indicated by the following evidence;

Transcript Vol. 50, page 7422

MR SHEPHERD: I would not wish to take your time to go through it step by step, but tell me whether this is correct. There has been some evidence to the effect that what happened was that Local 183 went to the contractors or perhaps the contractors came to Local 183 and expressed a preference of having Local 183 represent their men. Is that correct?

MR DAWE: Yes.

Again, there are causes for tension and strife. The changing technology; the competition between employers who themselves are caught between the unions and the developers; the competition between unions, including the dichotomy between trade unions and industrial unions. It was certainly a propitious time for illegal activities.

2 Violence

The increasing violence in the construction industry, especially in the three areas described in the previous chapter – lathing, plastering, and drywall; marble, tile, and terazzo; and concrete forming – led to the appointment of this Commission. The investigations of the Ontario Provincial Police and the Metro Toronto Police in Project B indicated that the violence was a symptom of serious trouble in the industry.

The scope of the violence is revealed in the evidence of Thomas Joseph Stapleton, the assistant director of the Records Bureau of the Metropolitan Toronto Police. The figures were obtained from the Toronto records. Exhibit 312, which is annexed to this report as appendix 8 is a statistical breakdown of offences that occurred in the construction industry from 1968 to 1972. There were 4 incidents of threatening, 234 of wilful damage, 15 of assault, 23 of arson, and 5 explosions, as well as many other offences such as thefts and break-ins. These figures are confined to the incidents that occurred on construction sites, but as you will see from this report there were many violent incidents that did not occur on construction sites but which nevertheless were generated by conditions in the sectors of the construction industry under investigation.

These unlawful activities begin, for the scope of this report, in 1968. The enthusiastic union activity which took place in the Brandon Hall period in the early 1960s was not marked by the kind of violence that occurred between 1968 and 1972. As I listened to the many witnesses who described what took place, it seemed to me that during this latter period a new and sinister element had been introduced to the building industry. The events

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were not impulsive responses to provocation; nor did they occur in a vacuum. They were associated in time and place with competition between contractors, competition between unions, and conflicts between contractors and unions. I will report in turn on each incident of violence that came to my attention.

THE EARLY PERIOD OF VIOLENCE, 1968–9

Concrete forming

The concrete forming sector of the construction industry was the setting for an early series of violent incidents. This sector, as we have seen, was dominated by Nicola DiLorenzo. Having started business in 1958, he soon grew to be the largest operator in the residential field, constructing high-rise apartment buildings. The workers in this field were predominantly new Canadians. About 1965, efforts were made by the respective craft unions to organize the workers in this sector of the industry, which by that time numbered about 4000 men. DiLorenzo for several years successfully resisted the efforts to organize his employees.

Agostino Simone was business manager of the Plasterers' Union Local 562. On 24 September 1965 that local signed its first collective agreement. In 1968, with the consent of Charles Irvine, the international representative, Simone proceeded to organize the concrete forming workers. Simone gave evidence that during this period of union activity from 1968 to 1971 he had on many occasions been threatened. Irvine had worked with Bruno Zanini in the Brandon Hall days organizing the employees in the residential section of the building industry. At that time, they achieved some temporary success. Now, Zanini was again hired to assist in organizing the concrete forming workers.

DiLorenzo co-operated with Simone and Zanini in the organization of the employees of his companies into the Concrete Forming Workers Division of Local 562, which gave him a single union for these workers. He opposed the Council of Concrete Forming Trade Unions, which had been formed under the aegis of the Toronto Building Trades Council as a council of craft unions to organize this sector. This created competition between Local 562 and the Council and conflict between the Council and DiLorenzo.

In 1968, when the DiLorenzo group of companies signed a collective agreement with Local 562, a competing group of companies signed with the Council. Between August 1968 and February 1969, nine incidents of appar-

ent wilful damage occurred at the job sites of those contractors whose employees were not organized by Local 562. These were:

1 / *Fire*, 30 August 1968, job site of Fran-Kiri Forming, 175 Steeles Avenue West, Willowdale. The heaters used to accelerate the drying of the concrete were deliberately moved to the wooden structures in order to start the fire. Damage: \$20,000.

2 / *Damage*, 7 December 1968, Kerbal Development site, Cooksville. A foreign substance was placed in motors of concrete mix trucks. Damage: \$15,000.

3 / *Fire*, 17 December 1968, office of Leader Masonry and Forming Limited, 125 Toryork Drive, Weston. An inflammable substance was spilled and ignited. Damage: \$75,000.

4 / *Damage*, 9 January 1969, Catkey Construction site, Driftwood Avenue, North York; Century Forming Limited contract. The jacks supporting the concrete floor were lowered before the concrete had set so that the floor sagged as a result. Damage: \$30,000. On 22 January 1969, after this damage had been repaired, the jacks were lowered again causing additional damage.

5 / *Fire*, 21 January 1969, Greenwin Construction site, 88 Erskine Avenue, Toronto; Fran-Kiri, forming contractor. The fire was of apparent incendiary origin. Damage: \$175,000.

6 / *Fire*, 26 January 1969, Premium Woodworking site, 50 Penn Avenue, North York; contract had been awarded to Fran-Kiri Forming for concrete forming. Damage: \$4,000.

7 / *Crane and hoist damage*, 29 and 30 January 1969, on a Deltan site at 4400 Bathurst Street, Toronto. A subcontractor's hoist and crane were damaged. Apparent sabotage. Damage: \$200,000.

8 / *Fire*, 7 February 1969, Campeau Construction Company site, Ottawa; Leader Masonry contract. The heaters had been turned in such a way as to cause the fire. Damage: \$200,000.

9 / *Fire*, 20 February 1969, Roche Development Limited site, Traverse Drive, Mississauga; Leader Group contract. The heaters had been turned in such a way as to cause the damage. Damage: \$150,000.

Nicola DiLorenzo denied any knowledge of these incidents. Simone said that he questioned Irvine about these fires and was asked to tell Zanini that there was heat around and to stop.

Transcript Vol. 5, page 245

MR SHEPHERD: Charley Irvine said to you tell Zanini that there is heat around and he is to stop?

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MR SIMONE: Yes.

Q: Then what did you say to Zanini?

A: I said Bruno, that is what Charley says. I don't know what happened after that.

It was at about this time that the special task force, Project B, was formed by the Ontario Provincial Police and the Metropolitan Toronto Police, and their presence brought the incidents to an end. During the course of this investigation, on 8 December 1969, Inspector B.E. Dorigo interviewed Zanini with reference to the fires which had taken place in the latter part of 1968 and the early part of 1969. He questioned him about the fires and an alleged payment to him by DiLorenzo of \$1500. Dorigo's account of this interview follows.

Transcript Vol. 48, page 7049

MR SHEPHERD: What did he say about the Leader office fire?

MR DORIGO: He denies that he was in any way responsible for it.

Q: Did the conversation go on from there?

A: Yes.

Q: What did you do or say?

A: We advised him that we had evidence to show that he had in fact received the \$1500 from DiLorenzo and evidence to show that he had told Simone that he had arranged to have the fire set.

Q: What did Mr Zanini say to that?

A: He had a change of heart.

Q: Then what did he say?

A: He then admitted that he had received \$1500 and more from DiLorenzo and admitted to Simone that he had arranged to set the fire. However, he said this was not true, that he had done this to impress Gus Simone.

I find it hard to accept that Zanini would have told Simone that he set the fires simply to impress him. The only reasonable explanation for the evidence is that Zanini was somehow involved with the violent incidents which had taken place. The payment of \$1500 will be further discussed in the chapter on payments.

Kiriakos Vlahos, one of the owners of Fran-Kiri Forming Ltd., told us that he had worked for DiLorenzo from 1959 to 1967. He operated several companies in the concrete forming field. He was one of the contractors who entered into a collective agreement with the Council of Concrete Forming Unions.

The agreement with the Council was signed in November 1968. He was the victim of a fire in August 1968 before he had made his choice. It would seem that he was being intimidated.

Transcript Vol. 45, page 6522

MR SHEPHERD: Now before you joined – you joined in November 1968 – was there a fire in August 1968 at the Village Gate Apartments site which was in Willowdale? And that was one of the sites that your company was working on?

MR VLAHOS: Right.

Q: Your company suffered about \$20,000 damage, I take it?

A: Around there, yes.

He was of the opinion that the fire had been deliberately set because a pile of 4 x 4 lumber and a piece of rag that had been soaked in gasoline or other flammable liquid was found. He also experienced a fire on 21 January 1969 at the Greenwin project. A third incident, in which the screws of the steel scaffolds had been loosened was avoided because the workmen arrived before any damage had occurred.

At first Irvine disclaimed any knowledge of these matters. He denied speaking to Simone when the incidents occurred.

Transcript Vol. 43, page 6125

MR SHEPHERD: Yes. Then acts of sabotage and fires broke out, as has been given in evidence. Do you recall that occurring?

MR IRVINE: That's right.

Q: Did you speak to Simone at any time and say to him words to this effect: 'Tell Bruno to stop; it's getting too hot' or words to that effect?

A: I never said those words to Mr Simone and never took any recognition of the fires, that it was something to do with Mr Zanini or anybody else.

Then Irvine implicitly accused Simone of being involved.

Transcript Vol. 43, page 6125

MR SHEPHERD: Did you talk to Simone at all about the fires that you can recall?

MR IRVINE: No. If there was anything said at the time, I think the only thing that I ever heard was Mr Simone said one time that the boys did a good job and that was the extent of it.

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And finally, in the same vein having denied speaking to Zanini about the fires, Irvine went on to say that there may have been some casual discussion.

Transcript Vol. 43, page 6130

MR IRVINE: We might have had occasion ... In thinking, we might have had casual discussion but there was nothing that was particularly about those fires that might have applied to Simone and Zanini.

We know that the organizers for Local 562 received the co-operation of DiLorenzo. Zanini, an active organizer for Local 562, pointed out that Leader Forming, Fran-Kiri Forming, and Century Formings Limited were among the companies that did not sign with Local 562. He recalled the incidents of fire and acts of sabotage.

Transcript Vol. 47, page 6823

MR SHEPHERD: In any event, they didn't sign with Local 562. Now, we come to the question of fires and acts of sabotage which broke out. You would have heard, of course, of all these various fires and the like to which great publicity was given. You will recall them?

MR ZANINI: Oh, definitely, Mr Shepherd. I remember it was the talk of the town.

Zanini told of the incident in August of 1968 at the Fran-Kiri site. He mentioned the December 1968 fire at the Leader office. Zanini denied Simone's evidence to the effect that he had gone to set this fire but found the premises burning.

Transcript Vol. 47, page 6824

MR SHEPHERD: Then you recall the fire which badly damaged the offices of Leader Masonry. That was a very notable fire, was it not?

MR ZANINI: That's correct.

Q: Mr Simone testified that he spoke to you about that and that you said that you had either yourself, or someone at your behest, had gone to the site with the view to setting a fire but the fire was already burning when you got there. What do you say about that?

A: It's not true.

Zanini told of a discussion with Simone about the fires when he was accused by Simone of setting them but denied knowing about them.

Transcript Vol. 47, page 6828

MR ZANINI: And we had the habit of watching the Untouchables, and Gus was funny, he thought, if he looks like Al Capone, and I used to rib him, I would say, you don't look like Al Capone, you look like Frank Nitti I said, look at the picture in Life Magazine, so I used to kid with him, but after these fires started coming one after the other, I stopped this nonsense of kidding anyone and he confronted me one day and said what the hell is going on, are you doing this and I says, no, Gus – then, who is doing it. I said, Gus, I don't know. This is exactly what happened.

It was Zanini's opinion that there were some hard-core unionists and building contractors behind the fires and, in fact, he suggested the Council of Concrete Forming Unions as the perpetrator.

Transcript Vol. 47, page 6829

MR ZANINI: I felt that it was some hard-core unionists and the building contractors that done it. This was my opinion, and maybe I am wrong. That is what I felt and that is what I said to Gus. I felt some hard-core unionists and contractors were behind it and I believe I am on record with the Toronto Daily Star the 5th, 6th, or 7th of March '69 when I made that statement to the press and I say it right now too. That is my opinion.

Transcript Vol. 47, page 6830

COMMISSIONER: I am referring to the Concrete Forming Council of Unions. Are you suggesting that?

MR ZANINI: Who had the motive for it?

COMMISSIONER: I am asking you.

WITNESS: In my opinion I think there was somebody there, in my opinion.

COMMISSIONER: What do you have on which to base that opinion?

WITNESS: Because the way everything manifested itself going right through until Chief Mackey pointed his finger at me, Your Honour. Everything was brought out, I got out of jail, and everything that has happened, people used to look at me. I did not have to talk. It was just taken for granted.

Transcript Vol. 47, page 6832

MR ZANINI: I don't have any facts or any evidence to substantiate that, Your Honour, only that they are the rivals to 562. There are many unions that it is possible could have did this just as easy and I do think in my mind that the building contractors are in on it and some hard-core unionists, but just who, what evidence that I can offer, I cannot offer or prove it. I have my suspicions, but that is not enough, that is not proof.

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Zanini also admitted that Aurelio Bianchini, the owner of the Leader Company, accused him of setting the fires. Zanini was questioned about threats to Bianchini's life in November 1968, alleged to have been made by Simone because Leader was not co-operating in the drive to organize for Local 562.

Transcript Vol. 48, pages 6984-5

MR CHARLEBOIS: Did Mr Simone, let me put it this way, did you ever overhear Mr Simone making any threats regarding Mr Bianchini's life?

MR ZANINI: Yes, there was some talk about it.

Q: Could you explain when this was, what you heard, and what were the circumstances surrounding this?

A: This was in November, the early part.

Q: What year?

A: 1968. He had come back from meeting the contractors and Frank Giles he was tanked up.

Q: You mean he had been drinking?

A: Yes. And he came with a stiff looking face and he did not say very much. He said that guy Bianchini should be killed. He wanted to know where he lived and he wanted to blow him up. I looked at him and wondered what the heck was coming off.

Q: This was after he had met the contractors?

A: Yes, some contractors. I do not know who.

Q: We have heard evidence that the Leader Forming was not one of the companies co-operating with 562.

A: That is correct.

Zanini denied that Simone spoke to him at the request of Irvine about the fires. He admitted, however, that Simone thought that he, Zanini, had some knowledge of the events.

Transcript Vol. 47, pages 6836-7

MR SHEPHERD: Mr Simone also testified that one day Mr Irvine came into his office and said to him, tell Bruno to stop, it is getting too hot downtown, or words to that effect. He said that you came into the office later and Simone said to you, Charlie says to stop, that you then left Simone and went to see Irvine. What conversation took place generally like that?

MR ZANINI: There never was anything to that effect, a suggestion for me to lay off or anything of that nature. I recall only one incident and I believe this was in January where Gus thought I knew something about it and I assured Gus

that I knew nothing about it, and I can tell you another incident –

Q: Yes.

A: Some time in the latter part of December, I believe, Elio Bianchini called Gus up and me and we met him in some restaurant near his office up there.

Q: Who met, you and Mr Simone?

A: Me and Gus Simone.

Q: Yes.

A: Elio Bianchini called Gus Simone and he was practically crying.

Q: Yes.

A: He says, you know, Bruno, people phoned up and said that you are doing all this stuff. I says, Elio, I did not do these things. Why don't you get the names of who these people are. He says, well, they are just phone calls and that is as far as it went, and he related what is happening to him, that he is going to go out of business, and it was pathetic to see the man practically breaking down and Gus and I, we just did not know what the hell to say to the poor man.

In fact, Zanini agreed that it was taken for granted that he was behind the fires.

Transcript Vol. 48, page 7007

MR SHEPHERD: What about the Leader Masonry fire, what was said about that?

MR ZANINI: There was never any talk about that Mr Shepherd. The people took it for granted that all that fire and violence came from Bruno Zanini.

People looked at me and smiled, they did not talk, including Mr Simone.

The evidence leads to a strong suspicion that those persons actively engaged in organizing on behalf of Local 562 were involved in causing the incidents of wilful damage described.

Irvine admitted having made a serious threat to Simone on or about 30 May 1969, on the occasion of Simone's trip to Chicago in connection with the transfer of the members from the Lathers' Local 562 to the Labourers' Local 183. The International Executive of the Lathers Union decided that jurisdiction over concrete forming should go to the Labourers Union for organization by Local 183. Simone was on his way to Chicago to attend a meeting to conclude the agreement between Local 562 of the Lathers and Local 183 of the Labourers. Charles Irvine was concerned about losing the concrete forming division of Local 562, over which he exercised jurisdiction and control. He threatened Simone. Simone testified as follows:

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Transcript Vol. 5, page 246

MR SIMONE: Well, the international president called me and told me that I was to attend a meeting in Chicago with the Labourer general president and at that time I told Charley I would go to Chicago and get this matter resolved with my general president and the Labourer general president. He says if you are going to turn that to the Labourers you better go across the street, or if you are going to Chicago you better go across the street and buy yourself a box, and across the street there is a funeral parlour, and then he said, well, if you are going to Chicago you better keep on going and not come back.

Transcript Vol. 43, page 6153

MR IRVINE: My reaction and my statement to him at that time was, 'You sell these men down the river and I will put you in the same box as you put the money you get for doing it in.' That was the statement. Nothing about, as Mr Simone said, pointing to the establishment across the street.

Zanini gave his version of this threat by Irvine to Simone.

Transcript Vol. 47, pages 6866-7

MR ZANINI: Charlie Irvine grabbed him or something. There was a discussion there – cash register mind and stuff like that – sell the men down the river.

There was an argument there – put you in the box, and kind of talk like that.

COMMISSIONER: Did you see that?

WITNESS: I did not see at all, Your Honour, but I knew there was a scuffle.

COMMISSIONER: You saw the scuffle?

WITNESS: When I walked in, I wondered what was going on. It was like an argument, him and Charlie, and Charlie was really mad.

Q: And something was said about put him in the box?

A: Yes, he said you have a cash register mind, meaning money, you know.

Q: Yes, he would mean money, and he was going to put him in a box, or words to that effect?

A: Yes, that is what he said, a box, and cash register.

There is little doubt that Charles Irvine did on that occasion intimidate Gus Simone for the purpose of compelling him to abstain from participating in the Chicago meeting.

Lathing and drywall

This sector of the industry was subject to a far more serious series of

violent incidents. Cesidio Romanelli had, for some years, carried on business as a lathing and drywall subcontractor, tied completely to the DelZotto companies who owned a 30 per cent interest in his business.

Transcript Vol. 14, page 1813

MR SHEPHERD: So one of the DelZottos or all of the DelZottos spoke to you and they said, 'Would you go into the drywall business because we are going to use drywall in our apartments?' Is that correct?

MR ROMANELLI: Yes.

Q: And you said, 'Yes, I'm willing to go into this business, I want your support and I want to feel that I do have financial support if I need it and you, the DelZottos, can have 30 per cent of the company, Frank Fior will have 30 per cent of the company and I, Cesidio Romanelli, will take 40 per cent of the company.'?

A: Correct.

Having through the years built up an efficient operation, Romanelli began in 1971 to seek outside contracts for work in his field. At about the same time he became concerned as a result of threats of violence. There was also some question of regulating the industry and controlling those contractors who refused to conform to what was considered to be appropriate bidding.

Transcript Vol. 14, page 1816

MR SHEPHERD: Up to the beginning of 1972 I take it that all the work of Durable Drywall was for the DelZotto enterprises; is that correct?

MR ROMANELLI: Correct.

Q: Since the beginning of 1972 what percentage, what part of the work of Durable Drywall is for the DelZotto enterprises and what part is for outside people?

A: Durable Drywall outside done only couple jobs, that I can recall, and the rest is all DelZotto, with DelZotto.

According to the evidence of Simone, Cesidio Romanelli became concerned about threats of violence in the summer of 1971. He had problems with Charles Irvine and Local 31 of the Plasterers' Union. Simone stated that Romanelli told him that on two occasions in the spring of 1971, someone had tried to run him off the road.

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Transcript Vol. 5, page 240

MR SIMONE: Yes, he told me that a few times he – somebody was trying to run him off the road.

MR SHEPHERD: Where?

A: Around Finch and 400.

Romanelli denied this incident.

Transcript Vol. 14, page 1858

MR SHEPHERD: Did you have two experiences in which a car as you thought tried to force you off the road?

MR ROMANELLI: No.

Q: Did you tell Simone that twice a car had tried to force you off the road?

A: No.

Simone described the incident in detail. In March 1971, late at night, Romanelli came to Simone's home. He urged Simone to accompany him on a drive to his Collingwood farm. They were stopped en route by a car which had been placed as a barricade across the roadway on Kipling Avenue. Simone stated that Romanelli made a telephone call from his car to his secretary. Then, after a few moments, the strange car moved from its position, enabling Romanelli to proceed. Romanelli denied the incident. Simone could not have fabricated the details of this incident. According to Simone, Romanelli commented that something was wrong and that he was going to discuss the matter with Angelo DelZotto.

Transcript Vol. 5, page 255

MR SIMONE: I believe he says that he would go and talk to Angelo.

MR SHEPHERD: That he would go and talk to whom?

A: Angelo.

Q: To Angelo?

A: Yes.

Q: Angelo DelZotto?

A: Yes.

Simone was later present at the Mona Lisa Restaurant in Toronto when Romanelli told Angelo DelZotto about the incident, whereupon DelZotto advised him to have someone around and, for that purpose, made a telephone call from a telephone that was brought to his table. It was confirmed by Detective Sergeant Thompson of the Commission staff that the restau-

rant did have telephone jacks at tables. There was no answer to the call and he then consulted the telephone book and gave Romanelli an address to visit at 10:00 AM the following day. He then added that if Simone wanted to get in touch with him and was unable to reach him at any time, he could call his secretary. Simone produced a notebook and Angelo DelZotto wrote therein the name of his secretary Rose Langer.

Transcript Vol. 41, page 5934

MR SHEPHERD: I show you exhibit 493. Do you recognize what it is?

MR SIMONE: Yes, this used to be my telephone book, which I left –

Q: I direct your attention to one page, on which appears the writing, printing, Rose Langer at the top of the inside of the first page?

A: Yes.

Q: Can you state how that came to be written there? There has been some discussion about it in evidence.

A: At the time I was, lunch or supper, or whatever it is, it was at night, at the Mona Lisa with Angelo DelZotto and Mr Romanelli, Angelo told me if I wanted to get in touch with him and would not be in at the office to leave a message with Rose Langer, his secretary and he put her name on my phone book.

Both Angelo DelZotto and Romanelli denied that the meeting in the Mona Lisa Restaurant had taken place or that the incidents described by Simone had occurred.

Transcript Vol. 19, page 2583

MR SHEPHERD: You are aware, Mr DelZotto that Mr Simone gave evidence that a date in the spring of 1971 he met with you and with Mr Romanelli in the Mona Lisa Restaurant in the evening and that Romanelli told you that he feared harm from Irvine. There was reference to an incident of a car crossing the road, that you made a telephone call, received no answer and gave a telephone number – rather a name and address, I am sorry, to Romanelli and told him to go and see the man whose name you had given him. Did that meeting take place?

MR DELZOTTO: That meeting never did take place. As a matter of fact when I heard that – the first time I heard that – I called Romanelli because I was completely shocked and I asked Romanelli – I said Romanelli did we ever have lunch with Simone and he said to me I have had lunch with Gus Simone a hundred times but the three of us have never been there together. So far as I am concerned, you know, I have had hundreds and hundreds of lunches and I

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am completely involved with so many different situations that to remember something so remote is very difficult for me. But I recall I had been to the Mona Lisa a few times with Mr Romanelli. I never recall being there with Simone. I couldn't swear that he wasn't, you know, at the restaurant but I can't recall him being there with me.

Angelo DelZotto acknowledged that Rose Langer had been his secretary. Simone's notebook had been filed at the Commission hearings as exhibit 493. The name Rose Langer in that notebook was shown to Angelo DelZotto when he was giving evidence under oath at the hearings. He hedged in his reply when questioned as to whether he had printed that name in Simone's book. He was then asked to print the name Rose Langer on a piece of paper (exhibit 494). DelZotto then agreed that it could be his signature in Simone's notebook. The page of Simone's notebook (exhibit 493) appears as appendix 9 and the piece of paper (exhibit 494) appears as appendix 10: see Figures 2 and 3.

Transcript Vol. 19, page 2584

MR SHEPHERD: I show you a name printed and suggest you perhaps printed that – is that correct? The name is Rose Langer?

MR DELZOTTO: Rose Langer used to be my secretary, yes.

Q: Did you print that Rose Langer or write that?

A: To tell you the truth I can't tell.

Q: Does it look like your printing or are you simply unable to say?

A: I am unable to say.

Later Angelo DelZotto was asked the question again.

Transcript Vol. 19, page 2609

COMMISSIONER: Mr DelZotto would you take a look at those two exhibits. I find a striking similarity between the printing of the name in both exhibits.

WITNESS: There is a similarity there. It could be my signature but I can't remember.

One must conclude from this evidence that the meeting in the Mona Lisa Restaurant did in fact take place as testified by Simone. I am impressed by the fact that Simone's evidence is supported by the name in the notebook. Angelo DelZotto's evidence leaves something to be desired. Why did Romanelli and DelZotto deny this meeting which quite obviously did take place?

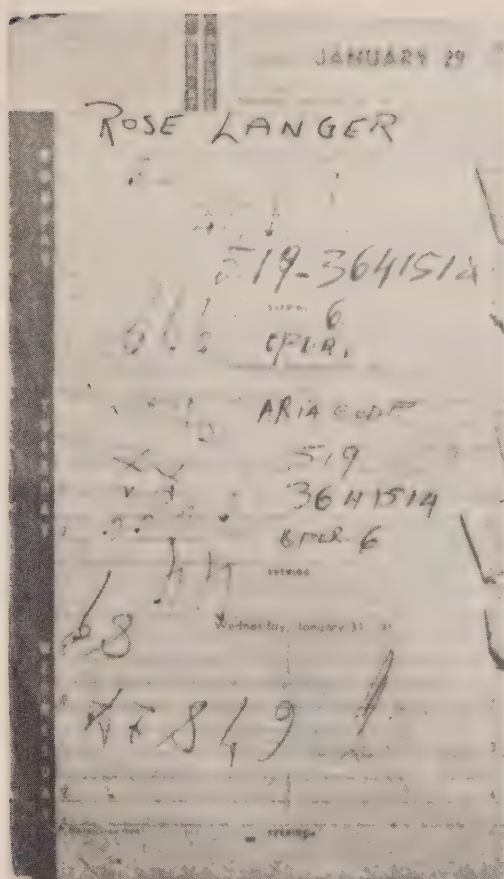


Figure 2 (appendix 9 exhibit 493)
Page from Simone's notebook

Figure 3 (appendix 10 exhibit 494)
Angelo DelZotto's printing

Simone also testified that Romanelli later confirmed to him that he had spoken to someone and had arranged matters.

Transcript Vol. 5, page 260

MR SIMONE: Later on, I think day after, Romanelli came to me and said that he has spoke to somebody.

MR SHEPHERD: Yes?

A: Everything is going to be okay and then later on he called me over to his office, he asked me that I should hire somebody –

According to Simone, Romanelli then suggested to him that he too get himself a bodyguard. The need for one was emphasized when Romanelli told Simone that he had managed to avert an attempt on Simone's life arranged by Charles Irvine. Whether Irvine ever made such a threat, or whether Romanelli was simply capitalizing on Simone's fear of Irvine, is not known. However, arrangements were made for Local 562 to employ an additional business agent and Joe Bagnato was hired on the recommendation of Romanelli. Bagnato qualified for his position as a former professional boxer with very little previous experience in labour matters. Simone testified as follows:

Transcript Vol. 5, page 262–3

MR SIMONE: Then I met Joe Bagnato, I believe is his last name, over at Romanelli's place and I said, 'Okay, I try to arrange a job for him.'

MR SHEPHERD: This is Joe Bagnato?

A: Bagnato.

Q: Did he have previous experience in the labour business at all?

A: Yes, he said he did have with the labour.

Q: But it was sometime back?

A: Yes.

Q: What was his ordinary calling, what did he do?

A: I think he was some professional fighter.

Q: He was a boxer?

A: A boxer.

In the meantime, Romanelli had engaged as an escort for himself one Natale Luppino of Hamilton and, for his Ottawa activities, one Joseph Zappia. Both men will be more fully described later. Simone testified as follows:

Transcript Vol. 5, page 264

MR SHEPHERD: Yes. Up to that time – well, let me put it this way, at what time did Mr Romanelli hire anybody?

MR SIMONE: Before that he had – I believe he had – I met this guy before that, pretty close to the same time.

Q: Which guy did you meet?

A: Natale Luppino. He said he hired him as superintendent or something.

Q: So at about the same time you employ Mr Bagnato and Mr Romanelli employs Mr Luppino; is that right?

A: Yes, about the same.

Q: And this employment was as a result of the concerns you have told us about that someone might be proposing to do harm to either one of you?

A: Yes.

Strangely, Romanelli insisted that the DelZottos never did know that Nat Luppino had been employed by Durable Drywall Limited. The DelZottos also denied any knowledge of such employment. It is acknowledged that the DelZottos held a 30 per cent interest in the company. Until January 1972 the company was engaged solely on DelZotto projects. Romanelli, as well as one or more of the DelZotto brothers would certainly visit DelZotto projects from time to time. Certainly, Romanelli would have occasion to attend at the DelZotto offices frequently in connection with the work, which ran into millions of dollars. There was substantial evidence that from the moment Luppino was hired he was Romanelli's constant companion. Luppino accompanied Romanelli, not only in the course of the operation of the company's affairs, but also in the operation of farms, which were owned jointly by Romanelli and the DelZottos. I find it strange, therefore, that the knowledge of his employment was so denied.

According to the evidence of Romanelli, Luppino was hired in Hamilton in May 1971.

Transcript Vol. 14, page 1850

MR SHEPHERD: Now you were walking away from the building and Mr Natale Luppino came up to you and he said what. I would like a job or something like that?

MR ROMANELLI: Yes. He just asked me for a job like other labour men you know the way they come around and he walked up to me and he said, 'do you know somebody I could get a job,' and at the time I was just going to my car

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and I said, 'listen I no got the time now.' I gave him my card and told him to come to see me in my office in Toronto.

Q: Had you ever heard of him before?

A: No.

According to Romanelli, Joseph Zappia was hired in Ottawa on 14 July 1971.

Transcript Vol. 14, page 1863

MR ROMANELLI: I went in the Italian cafe there and I met Mr Zappia. And Mr Zappia – I asked him if he was working and he said no. He said if he come and work for me, and this and that, you know, and I hired Mr Zappia.

In his evidence Romanelli tried to make it appear that these two escorts did in fact occupy useful positions in his business. The evidence, however, is that neither of these men had any experience in the construction industry. Fior contradicts Romanelli and his evidence as to the hiring and usefulness as follows:

Transcript Vol. 18, page 2369

MR SHEPHERD: Well, is your evidence really this: that Mr Luppino, whatever he was doing, didn't fall within your department? Is that right?

MR FIOR: It is correct. He was just there looking after certain things and he would do anything that I asked him to do, but that is about the size of it. He was mainly with Mr Romanelli all the time.

Q: Who introduced Mr Joe Zappia to the company?

A: I believe was Mr Luppino.

Q: Yes. And where did this occur?

A: Well, Mr Romanelli told me that it was Mr Luppino that introduced Joe Zappia. I don't know, because I met Joe Zappia after Mr Romanelli and Luppino went out to Ottawa.

The evidence generally indicates beyond doubt that both Luppino and Zappia acted merely as escorts for Romanelli. They are significantly present from time to time at meetings and discussions attended by Romanelli.

THE LATER PERIOD OF VIOLENCE, 1970–3

We come now to a period of feverish activity on the part of the contractors. According to the evidence of Simone, meetings were held for the purpose

of creating some form of solid front to deal firstly with labour, secondly with developers and general contractors, and thirdly with each other. Romanelli was on the move for additional work, while his competitors sought to improve their positions by joint bids on projects and mergers of companies. Romanelli also continued his efforts to join the ranks of the independent contractors. During and following this period, there occurred a number of violent incidents. These incidents were the symptoms of what had taken place in the industry. It is a reasonable inference from the evidence that a new element had been added. We will speak of it again later in the report. Naftali Kanner of Acme Drywall revealed the dramatic change.

Transcript Vol. 10, pages 1171–2

MR KANNER: Actually our industry is a peculiar industry. The tender industry was an honest, straightforward, and people could make a living in it.

MR SHEPHERD: This is 1953?

WITNESS: '53, '54. We had competitors like Mr Ballantyne and Son, Jacobs, Dinsmore and a few others. But everybody could make a living in it. It was pleasant to work. We worked hard, and I am sure that everybody was satisfied in the business. But greed and force somehow came in in this business and they transformed the whole business, the lathing business, into something – you had to hire people to regulate the industry. They didn't know how to tender, so they had the notion that if they had people, people actually would be on each step of any contractor to straighten out the industry. This industry didn't need this.

Metro Drywall Association was formed to regulate the industry. Meetings were held and substantial sums of money were contributed by the members. Naftali Kanner said that one purpose of the meetings and the money contributed by the contractors was to hire some men to regulate the business. The regulation aspect will be discussed in chapter 4, but dealing with the violence aspect, Kanner had this to say:

Transcript Vol. 10, page 1170

MR SHEPHERD: Was there talk about giving Simone money to go and hire more men?

A: Not more men actually, it wasn't a case of more men, but to hire some men, probably to regulate the business.

Kanner went on to describe a meeting in May 1971 at which it was agreed to employ men to regulate the industry.

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Transcript Vol. 10, pages 1185–6

MRS SHEPHERD: Then let me go back again, if I may, to this meeting of late May of 1971 attended by Messrs Romanelli, Muzzo, DeLuca, and Cesaroni, and yourself, you came late, and you heard a discussion and from the discussion you knew that you and each of the other companies was to pay a thousand dollars; that Romanelli was to collect it; that you understood the money was to go to Simone, and that you formed the impression that it was to enable Simone to employ not men at large but men to, in your words, regulate the industry; is that correct?

A: I would say so.

The many discussions were soon followed by a number of alarming incidents. The fumbling manner in which they were carried out suggested the employment of inexperienced hirelings. I was reminded somewhat of the book 'The Gang That Couldn't Shoot Straight' by Jimmy Breslin, wherein professional thugs managed to mess up every job they were hired to do. These events could have been laughable were the nature and implications not so serious. In concept and execution, the incidents were juvenile. The purpose, however, was obviously to frighten and intimidate. This conduct could not go unchallenged in a free, democratic society.

The following violent events occurred as hereinafter set out.

Naftali Kanner threatened

At one time, Acme Lathing tendered on a job described as phase 2 of Chapel Glen. The details are unimportant. It is important, however, that Simone threatened Kanner to induce him to withdraw Acme's tender. Kanner related the incident.

Transcript Vol. 11, pages 1162–3

MR SHEPHERD: Did he say, I am your best friend, do me a favour?

A: Yes, those words he said, do me a favour and I don't know exactly the words now – if I shall do the tender – or we should not take the Chapel Glen job.

Q: Yes.

A: And he will see like there is reciprocate or something, but on the other hand he mentioned something what make me nervous, but my family, my kids, have to be around, and something double talk, but I don't –

Q: What did you take this conversation to mean?

A: I don't know if I would take it as a threat or not a threat, but, like I mentioned before, he was not himself because he was drunk I would say.

Acme ignored the threat and proceeded with the work. The company met with trouble on the job; workers were not forthcoming in the quantity and quality as formerly; and wires were cut.

Transcript Vol. 11, pages 1165–6

COMMISSIONER: You said when you over-stepped the boundary, I take it you mean when you tried or did in fact obtain a job that others felt you weren't entitled to.

WITNESS: That is right.

COMMISSIONER: And when you did that you say you experienced trouble?

WITNESS: Yes.

COMMISSIONER: Tell us about the kind of trouble you experienced.

WITNESS: I mentioned last week we had a project and lost from one customer. We went back and got the second one. After it was plastered all the wires were cut.

COMMISSIONER: You told us that the other day.

WITNESS: Yes.

COMMISSIONER: Any other examples?

WITNESS: There were different examples like with men, to call on men, sometimes that you get – we have the projects and we didn't have the men, the finish men.

Donato Tullio threatened

In the spring of 1972, Acme promoted merger discussions with Downsview and Gemini. Downsview was owned by the Tullio brothers, while Gemini was owned by Alessandro and Milani. It appeared that an agreement was concluded to the point of execution of the formal legal documents. Acme had previously been involved in merger discussions with Romanelli. That did not materialize. An amalgamation between Acme, Downsview, and Gemini would have created a formidable competitor, not only to Romanelli, but also to others in the industry.

Naftali Kanner of Acme told of the merger. The agreement had reached the point of signing the documents when Stanley Sosin received a call from Danny Tullio saying that he would have to withdraw because he had been threatened by violence if he proceeded.

Transcript Vol. 11, Pages 1191–2

MR SHEPHERD: You I suppose attended a meeting, did you, with Mr Tullio, or perhaps both of the Tullio brothers, and Mr Alessandro and Mr Sosin to discuss this?

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Mr Kanner: Yes.

Q: Without going through the whole history of negotiations, what was ultimately decided?

A: That Mr Sosin, Alessandro and Tullio – I don't know if Tullio, but the other brother will go next day to the lawyers to sign the papers.

Q: And was it your understanding that they did go to lawyers?

A: Yes.

Q: And then was there another meeting after that before the papers were signed?

A: Yes. There was a meeting and everything was worked out, the mechanics of it, and they supposed to go up to the lawyers.

Q: Yes?

A: Next day.

Q: Yes?

A: And I was informed next day that Mr Sosin got a phone call from one of the Tullios that he is sorry, he can't go through with it because he was threatened; when he left the meeting he was threatened with some violence.

Q: Was the final arrangement that Acme was to have a one-third interest, either Acme or you and your partner and Mr Sosin, Downsview or its principals would have a one-third interest in the new company?

A: That is right.

Ettore Milani, a partner in Gemini, knew of the merger talks but left on a holiday for Italy, leaving the final decision to his partners.

Transcript Vol. 9, page 1021

MR SHEPHERD: When you left did you believe that Gemini was going to merge with Acme?

A: Well not really because no sign the paper.

Q: You hadn't signed the papers yet?

A: No.

Q: Were you in favour of it?

A: Well you know it was not a bad idea.

Q: Did you leave it to Mr Alessandro?

A: Right.

Stanley Sosin described the Acme-Downsview-Gemini merger negotiations which culminated in a late-night meeting at Gemini's premises. Again I found it significant that when Tullio left at midnight he was perfectly satisfied.

Transcript Vol. 12, pages 1360–1

MR SHEPHERD: When Mr Tullio left Gemini's office that night, what was his attitude towards this merger?

MR SOSIN: He was happy. He was happy. As a matter of fact I felt they were extremely confident because we gave the company their name. We had many discussions about naming the company, we were going to form a new company. Everybody wanted their own company name and we had given a major concession by letting it be Downsview Drywall, and it was in their name. We felt they would need – Mr Kanner was going to drift apart, and do more of his land development and it was not essential that the Acme name be preserved, and it was a good conciliatory gesture to Downsview.

Q: You said Mr Tullio was pleased?

A: Mr Tullio was pleased. Very pleased.

At 7:00 AM the following morning Tullio called Sosin about a threat.

Transcript Vol. 12, page 1361

MR SHEPHERD: Then what happened?

A: Next morning I got to the office around 7:00 o'clock. The first phone call of the day was Tullio on the phone. I said Hi. He said something to the effect – I can't quote the exact words – that we can't go with you anymore. We have got to stop. We are not going to go through with the merger anymore.

I said, Why? He said, I was followed home last night. Now I can't remember if he said two or four men, but in a car. More than two individuals. And they threatened him that they would burn his house and they would beat him up, something to that effect, if he didn't stop what he was doing. Which he interpreted to be merging.

Tullio apparently was nervous and unable to proceed. Sosin believed that there was a genuine threat made to Tullio, and it was only at the Commission hearings that Sosin learned that Tullio had changed his story.

Transcript Vol. 12, page 1362

MR SHEPHERD: What was his manner and tone of voice?

A: Very quiet and very nervous. Whatever he said today, he had to be a fantastic actor to do it on the phone because he was definitely serious. And I said, like, I'm very sorry for this happening. What do you think? He said, no, we can't go through with it, and I said, fine.

Q: Did you say anything else to him?

A: No, I don't think so. I was more or less sort of semi-shocked.

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Q: Yes.

A: It wasn't a deep shock, but we were startled.

Q: What was your own attitude of mind having heard this? Did you at this time believe –

A: I believed him, and I still believe him. I still believe it.

There is some confirmation of the threat in the fact that at the same time, another Tullio brother was warned by Romanelli and others not to proceed.

Transcript Vol. 12, page 1363

MR SOSIN: And at the same time he told us one of the other brothers that night was visited by Romanelli, Domenic Valsi, and Mario Palma, and they were over at the other brother's house and they were saying he didn't have to merge with Acme; he would be better on his own, or something to that effect. So we were – we couldn't understand why. There was no great threats in our background. We didn't have any great nervous feelings. We just couldn't understand why something like this would happen.

Simone also described how this merger was sabotaged by threats to Danny Tullio.

Transcript Vol. 5, page 300

MR SIMONE: He said that he was threatened so he wouldn't go with Acme. He says I wasn't going with them. I am not going with Acme.

MR SHEPHERD: Where did he say the threat occurred?

A: Over at his house.

Q: And what was the threat? What happened?

A: A couple of guys went up there with a car and said you'd better stay away with Acme. Something like that. I think that is what he told me.

Tullio agreed that there were merger talks which originally were to include Downsview, Gemini, and Acme. The discussions took place in June or July. Tullio said he became disenchanted with the merger and wished to extricate himself. He therefore phoned Kanner and told him of a threat to himself and family if he continued, which was not true, but was made simply to get out of the deal.

Transcript Vol. 9, page 910

MR TULLIO: Well on the morning the first thing come out through my mind – I

called Stan Sosin and told him ‘last night I had somebody follow me home and I thought it was some friend of mine but when I get out of the car and I went closer to the other car there were two guys in the car and they told me to watch what I was doing and they took off.’ But this not true. Nobody ever followed me home.

I found it significant that Tullio also told Alessandro and Simone that he had been threatened, as well as the police, although it was later denied.

It is a reasonable inference from the evidence that Danny Tullio was intimidated for the purpose of compelling him to abstain from merging Downsview with Acme and Gemini. When Downsview dropped out, the plans for merger proceeded between Acme and Gemini alone.

Transcript Vol. 12, page 1365

MR SHEPHERD: I take it the merger went ahead thereafter without Downsview?

MR SOSIN: That is right.

Q: I appreciate that it finally did not come to fruition, but further steps were taken respecting merging with just Gemini?

A: That is right.

Acme harassment

Romanelli confirmed that in his view Acme had taken work that he was entitled to. This involved a job for Chapel Glen, a development company in which Max Merkur had an interest.

Transcript Vol. 15, pages 1948–9

MR SHEPHERD: So you went to see Mr Merkur and you arrived, then, at a lower price after discussions did you?

A: Well, he cut us down, like I said, from eight sixty-five, eight seventy – nine sixty-five, nine seventy down to about eight sixty, eight eighty-five – eight ninety, I couldn’t remember.

Q: Yes.

A: And he said to Mr Max Merkur he want us to come down I think to eight fifty or something like that and I said: ‘I’m sorry, we can’t do the job’ and I never see Stan, or I never see Mr Kanner, so I never know; we just went to Max Merkur and said: ‘I’m sorry, we can’t do it.’

Q: And is that all that happened with respect to the Chapel Glen job?

A: That’s all.

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Once Acme had started work on the job there was an incident in which the police were called. Simone gave the following evidence.

Transcript Vol. 5, pages 288–9

MR SHEPHERD: Now, evidence will be given by Mr Kanner, I put to you, generally to the effect that on an occasion after the collapse of this merger, a couple of workmen arrived at one of the Acme jobs and caused a great deal of difficulty and finally they had to call the police to get them to go away and either Mr Kanner or Mr Sosin thought that perhaps you had invited these men to cause trouble and had done so because Romanelli had asked you to do it. What is this all about?

A: No, I didn't get the request for men from Sosin; I think Bob Buird got the call.

Q: Bob Buird – B-u-i-r-d?

A: I believe so – to send some men up to Chapel Glen.

Sosin described the incident as follows:

Transcript Vol. 12, page 1319–20

MR SOSIN: Two men were sent to the job – two French-Canadian men, boardmen, and we didn't request them. I heard Mr Simone say we requested them but, to my knowledge, we didn't request them.

Q: Who sent them?

A: The union. To the best of our knowledge, the union. And they caused trouble with the superintendent, our superintendent, and the manager and the project manager and the project superintendent on the job and my brother was asked to lay them off. He went there to lay them off and they didn't want to leave and they became hostile. He just told them to get out of the building and that's the end of it. They stayed. They came back the next day and they just hung on the project. For a day they just wandered around the project and it made our company officials nervous and it made some of our men nervous – not nervous, but it was distracting. My brother then called either Ballantyne or Simone. Anyway, he called the union and asked them to remove these men and the answer that came back was that these men were the appointed shop stewards for this project, which was hilarious because they weren't in our employ and they had nothing to do with the job.

Taken alone, this violent incident might be construed as the result of misunderstanding, but in the context of events, it has the appearance of a display of strength to show that decisions can be enforced.

Shooting, Acme premises, July 1972

Acme Lathing occupied premises at Unit 6A, 73 Alness Street, North York. Some time during the weekend of 1 July 1972 the exterior of their premises was strafed with bullets. It was suggested to Simone that there was some connection between the shooting incident and the merger with Gemini. The evidence indicated a reluctant acquiescence by Simone.

Transcript Vol. 5, page 306

MR SHEPHERD: The shooting was the 1st, the weekend of the 1st of July?

MR SIMONE: Would have been August, I think.

Q: Or July perhaps?

A: Or July.

Q: Yes. And you thought that the merger had taken place and you thought no more about it, I suppose?

A: That's right.

Q: When did you hear about the shooting?

A: On the morning.

Q: Would this be the Tuesday morning after the long weekend, the beginning of July?

A: Yes.

Robert Monument of the Forensic Sciences Laboratory, described the physical characteristics of the shooting.

Transcript Vol. 9, pages 1031-2

MR MCRAE: Would you just give us your findings with respect to those bullets?

A: There are three reports by myself. These bullets were probably fired from a 9 millimeter weapon bearing rifling specifications of six grooves, right-hand twist. The weapon involved would appear to be a semi-automatic pistol; however, the possibility of a sub-machine gun being involved should not be overlooked. The exact weapon used cannot be accurately determined because these rifling specifications are quite commonly found in 9 millimeter Parabellum pistols and sub-machine guns. Listed below are some weapons that may be involved. Now, for pistols: German Luger, Model 1908; German Walther, Model P38; Browning, Model Hi-Power, made in both Belgium and Canada; and Radom, made in Poland, Model P35. Now, sub-machine guns: Schmeisser, made in Germany, model MP-40; the Walther, made in Germany, Model s; Steyr-Solothurn, made in Austria, Model MP-34.

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Sergeant George Thompson gave evidence of the shooting incident and told of the investigation by Police Constables Wood and Reynolds on Monday, 3 July. They inspected the damage at Acme premises, 73 Alness Street, North York, which apparently occurred between Saturday 1 July 1972, and Monday, 3 July 1972.

Transcript Vol. 10, pages 1101–2

WITNESS: Your Honour, on Monday, July 3rd of 1972, at about 9.33 AM the Metropolitan Toronto Police Constables Robert Wood, No. 394, and Robert Reynolds, No. 3514, of No. 32 Division answered a radio call to Unit 6A at 73 Alness Street regarding damage to the premises. These premises are known as the Acme Lathing Company Limited and are located in a one level industrial complex with offices at the front and industrial premises at the rear. They are located in the Dufferin Street and Finch Avenue West area in the Borough of North York in the Municipality of Metropolitan Toronto. On their arrival the Police Officers were met by a Mr Naftali Kanner and a Mr Alec Mischevski, who identified themselves as owners of Acme Lathing Company Limited. In addition they were met by a Mr Stanley Sosin, their general manager. These gentlemen reported that the premises had been secured on Saturday, July the 1st, 1972 at about 10.30 AM in the morning, and that they were in good order and undamaged at that time. When they arrived there at about 9.30 AM on Monday, July the 3rd of 1972, they found that the premises had been damaged by what appeared to be gunshots.

Photos were filed as exhibits 371–81; one of these appears as Figure 4 (appendix II).

Transcript Vol. 10, page 1107

MR MCRAE: Would it be fair to say that the building had been peppered with bullets? A total of twenty-eight either bullet holes or bullet markings on the bricks?

MR THOMPSON: On examination at the time by Police Constables Wood and Reynolds, Your Honour, they counted approximately twenty-eight holes in the front windows and on the exterior of the brick work of the building. And inside the building there were holes that corresponded with those that were in the front window.

The total estimated damage was \$2,865. Fortunately, the premises were unoccupied at the time of the shooting. It was inferred from the physical factors and observations that the shooting took place from a vehicle on



Figure 4 (appendix 11 exhibit 374)
Acme premises after shooting

Alness Street and that the shells were ejected into a container or the vehicle from which the shooting took place, as no shells were found on the site.

Kanner described the shooting incident of the 1 July weekend. The lack of specific threats or warnings at first suggested to him that it was an incident of vandalism.

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Transcript Vol. 11, page 1200

MR SHEPHERD: Did you connect that with any specific problem when that first occurred?

A: I did and I did not.

Q: What was your reaction to it?

A: Accident or something. Somebody shooting at the place.

Q: It wouldn't be by accident?

A: No, it wouldn't be by accident, but some vandals or something.

Q: I see.

A: I was suspicious of what, but on the other hand how can you –

Q: You hadn't had I take it then any threats or any warnings or discussions?

A: No, no.

Kanner was not intimidated and continued his merger discussions with Gemini.

Sosin arrived on Monday morning, 3 July, and observed the bullet holes. He felt that this violent display resulted from those opposed to the merger.

Transcript Vol. 12, pages 1368–9

MR SHEPHERD: Did the officers of Acme and yourself have any firm belief as to what that shooting was related to?

A: No, no.

Q: Had there been any threat beforehand?

A: No, not with this, no.

Q: Was there any message or demand made thereafter?

A: Not to my knowledge, no.

COMMISSIONER: The only extraordinary activity that was taking place at that time was this merger?

WITNESS: The merger and also competing for jobs. It was normal.

COMMISSIONER: I see. The competition for jobs had gone on for some time?

WITNESS: Yes. There was nothing extraordinary.

This event, in my opinion, was a deliberate attempt to frighten and intimidate the owners of Acme Lathing and Gemini Drywall to give up their merger plans.

After the public hearings adjourned in March 1974, the police continued surveillance of a number of persons and locations. During the surveillance, on 11 April 1974, a photograph was taken showing **Frank Volpe** and **Nathan Klegerman** with one **Ian Rosenburg**, who, as you will see, becomes involved (Figure 5). These photos are entered as exhibit 1098, appendix 12,



Figure 5 (appendix 12 exhibit 1098)
Nathan Klegerman, Ian Rosenberg, and Frank Volpe

and exhibit 1099. Then, on 4 July 1974 a station-wagon, which was later identified as registered in the name of Bayne Motor Sales Limited, arrived at the Bike Stop, a motorcycle sales and service centre at 1636 Jane Street, Toronto. The driver was Sanders Hartley Bayne of 49 Hepbourne Street, Toronto. He entered the shop and soon emerged with Charles Yanover. Bayne is associated with J.S.B. Firearms Limited of 403 Adelaide Street West, Toronto. He controls several premises in the west end of the city. Finding these two together was sufficient reason to place both of them under further surveillance. On 4 July 1974 Ian Rosenberg was seen at the Bike Stop driving a car usually used by Yanover. It was later learned that Rosenberg had met Yanover when they were both in prison, and that Rosenberg had lived with Yanover at his 112 Braemar Avenue residence from the time of his release on parole 14 June 1974. Rosenberg has a long criminal record as shown in exhibit 1085, appendix 13, and his photo appears as Figure 6, exhibit 1100, appendix 14.

Now, on Monday 15 July 1974 at 9:00 AM, Bayne was seen entering one of his vacant houses at 1003 Dufferin Street, carrying a cardboard box which he left behind. To gain entrance he used a key to the front door. The house appears as Figure 7, exhibit 1104, appendix 15. Later that morning



Figure 6 (appendix 14 exhibit 1100)
Ian Rosenberg

the investigators searched Bayne's house on Hepbourne Street and found in the basement a large quantity of gun parts. The list of items is entered as exhibit 1077, with individual letters, and the articles appear on the left side of Figure 8, exhibit 1079, appendix 16. Also located on the premises were several weapons covered by permits.

Bayne explained to Staff Sergeant Thompson originally, and again at the hearing, that he met Yanover in November 1972 and that Yanover asked him to keep some gun parts for him. Shortly thereafter, in December 1972, Yanover, accompanied by Alexander MacIsaac, brought two cardboard boxes filled with gun parts to his home. According to Thompson, Bayne gave the following explanation.

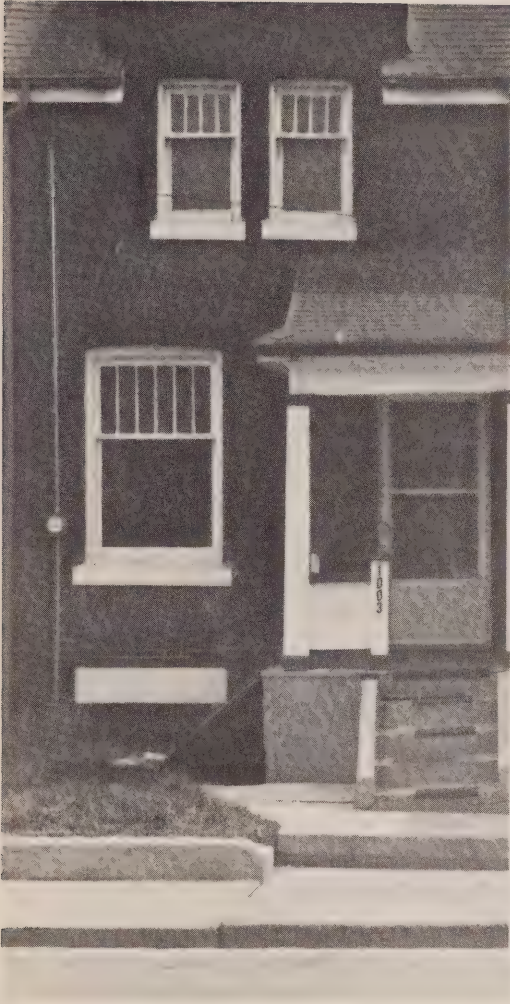


Figure 7 (appendix 15 exhibit 1104)
1003 Dufferin Street

Transcript Vol. 65, page 10047

MR THOMPSON: He said that Yanover and a man named Sandy MacIsaac brought them to his home at 49 Hepbourne in maybe late November or early December of 1972 and they were in cardboard boxes and that they were



Figure 8 (appendix 16 exhibit 1079)
Guns and parts

mostly Sten gun parts and that some have been disposed of. I asked him why Yanover wanted to bring them to his house or for him to keep them. He said that Yanover never really specified why he wanted him to keep them but he said that when he read about Chuck, meaning Yanover, in the paper he, that is Bayne, got pretty anxious for Yanover to take them back and that Yanover didn't seem to want to take them back.

Bayne confirmed Thompson's evidence and stated that the parts consisted of parts of automatic weapons, including Sten guns. He identified the parts as those displayed in photograph exhibit 1079. He gave the following explanation of the delivery of the parts:

Transcript Vol. 65, page 10165

MR SHEPHERD: What did Yanover want you to do with that collection of gun parts?

MR BAYNE: To keep them.

Q: Did he say why?

A: No sir, he didn't.

Q: Did you ask him why?

A: No sir, I didn't.

Q: You must have thought it very odd, did you not: a man coming in out of a

snow storm with a great many cartons of gun parts, possibly as many as ten cartons and he wants you to keep them. He doesn't say why and you don't ask him. That is odd, is it not?

A: It seems strange on recollection, yes. I think I was surprised by the quantity of parts which he brought me. I thought there would be far fewer.

Q: Even though you did not ask him what you were supposed to do with them, what did you yourself think that you would do with them?

A: Well, I had the feeling that they would only be in my possession for a very temporary period of time.

Bayne identified the gun barrel, exhibit 1078A.

Transcript Vol. 65, pages 10168–9

COMMISSIONER: What about Exhibit 1078A?

MR SHEPHERD, Q: 1078A, this is one of the barrels that you will see, as you look on the outside, it has been sliced in two and then welded together. Is that something you did or something that was done before you got it?

MR BAYNE: No, sir, It would have had to have been the way it was before I got it. I had no welding equipment at my disposal.

Q: From your knowledge of –

COMMISSIONER: You say that is the condition it was in when you received it?

WITNESS: Yes, sir, that's right.

COMMISSIONER: And that is one of the pieces that you received from Mr Yanover that night and he delivered it in December?

WITNESS: I believe it to be, yes.

Then in September 1973 Bayne read about the Royal Commission hearings and became concerned.

Transcript Vol. 65, pages 10170–1

MR SHEPHERD: What action, if any, did you take about those parts when you read about Yanover? Did you speak to Yanover about it?

MR BAYNE: We were in contact on several occasions, yes.

Q: What was your purpose in getting in contact with him?

A: I think I wanted him to take them back.

Q: And what did he say?

A: I don't recollect his exact words, but he didn't take them back at that time.

Q: Do you recall, in a general way, why he said he was unable to take them back or didn't want to take them back?

A: I got the impression he had nowhere else to keep them, sir.

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Q: I see. How many attempts did you make to get him to take them back?

A: Perhaps as many as three.

Q: Did he subsequently agree to take some parts back?

A: Yes, I think he did.

Q: Would this be as late as 1974, this year?

A: It may have been.

Yanover said that he gave Bayne gun parts at a gun show in February or March 1973. He denied giving the parts shown in the photo, exhibit 1079, as stated by Bayne. Yanover added that he had not met Bayne until January or February 1973. He admitted that Bayne returned some parts to him on 4 July 1974 at the Bike Stop.

After the search, Bayne lost no time in confronting Yanover at the Bike Stop, which Yanover admitted. They were soon observed driving about in Bayne's car. Later that same night, Yanover came to Bayne's Hepbourne Street home where they were seen together in the yard.

Bayne, in his testimony, confirmed that on Monday 15 July he placed a box of gun parts, exhibit 1078, in the house at 1003 Dufferin Street. They were parts brought to him originally by Yanover. On returning home, he was met by the investigators who carried out a search of his premises. He told of confronting Yanover. Yanover wanted to have the parts destroyed. Bayne gave Yanover the key to the Dufferin Street house.

Transcript Vol. 65, pages 10186-8

COMMISSIONER: You said, 'He had a key.' Where did he get the key?

MR BAYNE: He would have gotten it from me, Your Honour.

COMMISSIONER: When did he get the key from you?

WITNESS: Sorry?

COMMISSIONER: When did he get the key from you?

WITNESS: That evening while we were talking.

MR SHEPHERD: This key, when I get my hands on it, Mr Bayne, has scratched on it the numerals '1003,' as I will show you in just a moment. I show you exhibit 1080 and you will see '1003' scratched on the key. Do you see that?

MR BAYNE: Yes, I do.

Q: Who scratched that on the key?

A: I make a practice, when I get keys to new properties that I purchase, because I have so many others that I identify them with the street address, otherwise I would be fumbling through a hundred keys at a time trying to –

Q: At that particular time, did you scratch that on the key?

A: When I got it from my lawyer, yes.

Q: I'm sorry, what was that, please?

A: When I got the closing papers from my lawyer, I also got the key.

Q: I see. When you bought the house?

A: Yes.

Q: I see. You scratched on it '1003' to identify it?

A: To avoid confusion, yes, sir.

Q: Yes. And you gave Yanover the key to those premises and you told him that the parts were there and it was your understanding that he would go and get them; is that correct?

A: Well, I didn't know that he would go to get them or anybody else would. I was hoping – when I got no positive answer from him, I was hoping that he would.

Bayne learned later that night that the box had been picked up by Rosenberg and later Yanover complained that he, Yanover, had sent Rosenberg into a 'den of lions.'

Transcript Vol. 65, pages 10,195–6

MR SHEPHERD: And what did he say about how Rosenberg came to be at the house in the first place?

MR BAYNE: Well, he didn't say too much about that.

Q: Did he say he had sent him there?

A: No, sir, he didn't.

Q: Did he say he had sent him into a 'den of lions'?

A: Yes, sir, he did.

Q: Referring to Rosenberg?

A: I think referring to the fact that he was involved in some way.

At the hearing, Rosenberg said simply that he was asked to pick up a box by Frank Langstaff, whom he met on 16 June 1974, two days after his release from prison, at a gun show which he attended with Yanover. Rosenberg went on to describe him as being frequently at the Bike Stop. Strangely, no one except Rosenberg knew or ever heard of him – not even Yanover, who brought Rosenberg to the gun show on 16 June 1974 and who worked with Rosenberg at the Bike Stop. Rosenberg went on to give further details of other deliveries for the same person. I need not discuss the details because I find the entire explanation patently false. I doubt that even Rosenberg himself expected anyone to believe it. He admitted at the hearing that his first explanation to the police differed from his subsequent explanations.

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Transcript Vol. 65, page 10255

MR SHEPHERD: Well, you told your story, Mr Rosenberg. One last thing: when you came out of the house the police stopped you and spoke to you about this box and you said, 'I just met this guy and he asked me to pick up the box.' They asked you who he was and you said, 'I don't know; he is just a guy I met.' Then some time later, not long after (down at the station I believe it was) the officers there pressed you for the name of this man and you said it was Frank Langstaff; is that correct?

MR ROSENBERG: In essence, it is correct.

The house at 1003 Dufferin Street had been closely watched. Then, on Tuesday, 16 July 1974, at 3:45 PM, Rosenberg was spotted on Dufferin Street near the house. After carefully reconnoitering the area he entered the house using a key to the front door. On leaving the house with the cardboard box that Bayne had left behind the previous day, he was stopped by the police. The box was seized. The box contained the gun parts now listed in exhibit 1078, with individual letters, and is shown in the middle portion of the photo, exhibit 1079, appendix 16. The gun barrel, exhibit 1078, appears as one of the gun parts. The key to the premises at 1003 Dufferin Street was taken from Rosenberg and is entered as exhibit 1080. Later, when Bayne was questioned about the key he stated that it was the only key to the premises and that he had turned it over to Yanover.

Rosenberg gave the following explanation to the officers when he was stopped.

Transcript Vol. 65, page 10057

MR THOMPSON: The surveillance officers that took Rosenberg into custody asking him a series of questions and they asked him what was in the box. He said I don't know. I just met this guy and he asked me to pick up the box. Then they asked Rosenberg who the man was. He said I don't know. He was just a guy I met. The officers again asked Rosenberg what was in the box and at this time he said gun parts and that is all I know.

He later elaborated about meeting Yanover in prison, living with him since his release, and working at the Bike Stop through Yanover's assistance. He now gave a new explanation. He said that he was approached at the Bike Stop by one Frank Langstaff or Longstaff, who gave him the key and asked him to go to 1003 Dufferin Street and pick up a carton containing gun parts. Both Bayne and Yanover testified that they had never heard of

anyone named Langstaff or Longstaff. Then, during the night of 16 July 1974 Bayne came to Yanover's Braemar Street residence and was seen in conversation with Yanover and Rosenberg outside. Bayne and Yanover continued to meet thereafter, up to the end of July 1974.

The two Sten guns shown in the right portion of the photo, exhibit 1079 appendix 16, were identified by Bayne as having been assembled by him with some of the parts obtained from Yanover and other parts. They were sold and are now privately owned.

Exhibits 1081 and 1082 are photo albums found in the Yanover premises containing many photographs showing Yanover with firearms of different types. There is no doubt about Yanover's heavy involvement with firearms.

Yanover gave evidence in which he denied giving the parts that were shown in photo exhibit 1079 to Bayne and that Bayne had given him the key, exhibit 1080, to the Dufferin Street house, or that he in turn gave the key to Rosenberg.

I found that Yanover's evidence was not at all credible. The following is a typical example of his answers.

Transcript Vol. 65, page 10267

MR SHEPHERD: And what did you say?

MR YANOVER: What did I say? I don't know exactly what I said, Mr Shepherd, or round about what I said.

And then, although he admitted that Bayne confronted him immediately on 16 July 1974 he could not answer the questions about the conversation which had taken place a mere two weeks prior to the hearing.

Transcript Vol. 65, page 10272

MR SHEPHERD: And what happened at that conversation?

MR YANOVER: At that conversation?

Q: Yes.

A: I can't recall the exact conversation, nor did I really care that much about it.

Q: Well, what was the reason for him coming?

A: He said he was coming up. That's all I knew.

Q: But then he came. What did he have to say?

A: What did he say? To tell you the truth, Mr Shepherd, I can't remember what was said last night.

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Robert Monument, the ballistics expert with the Centre of Forensic Sciences, made tests and told us about them. Exhibit 313 is seven 9 mm slugs picked up at the Acme premises resulting from the shooting in July 1972. Three of these slugs appear as exhibit 313A, individually marked as A-4, A-5, and A-6. They are shown in photos entered as exhibits 1103A, 1103B, and 1103C. The gun barrel with serial number 3028 was among the parts taken from Rosenberg at 1003 Dufferin Street, on 16 July 1974. It is part of exhibit 1078 and is individually identified as exhibit 1078A. Monument described his tests in detail and made a positive identification that the three slugs, A-4, A-5, and A-6 had been fired through the gun barrel, exhibit 1078A.

Transcript Vol. 65, pages 10126-8

MR SHEPHERD: What test did you make to determine whether or not any of the gun barrels which you then received from Staff Sergeant Thompson had fired any one of the rounds in exhibit 313?

MR MONUMENT: Yes. All of the barrels submitted on that date of July 18th 1974 were test fired by myself. Those tests were then taken and compared microscopically against the 7 outstanding bullets, exhibit 313, and it was my findings that 3 of the 7 bullets had been indeed fired from the Item F5 Sten barrel, my report, number 3028. The 4 remaining bullets could not be identified as having been fired from any of the remaining Sten barrels received in connection with this case.

Q: Did you mark the barrel in question in any way so that you would know it again?

COMMISSIONER: Are the 3 bullets which are identified as having been fired from barrel 3028 identified as separately now from the other 4?

WITNESS: Yes sir. I have them marked A4, 5 and 6.

MR SHEPHERD: Perhaps we should put those in first then, Mr Commissioner.

Q: I show you exhibit 313. Perhaps you could separate them out now, Mr Monument.

A: There is Item A4, Item A5, and Item A6, the 3 bullets that were identified.

MR SHEPHERD: Perhaps, Mr Commissioner –

COMMISSIONER: Those numbers that you have given, A4, A5, and A6, are numbers that you have assigned to them for your identification purposes.

WITNESS: That is correct, sir, yes.

Q: You have marked those numbers on them, have you?

A: The numbers are scribed on them with my initials. The red ink you see here, phase marks for identification.

COMMISSIONER: I think A4, A5, and A6 should now be entered as Exhibit 313A.

MR SHEPHERD: Yes, Mr Commissioner.

Q: Is the barrel in question, Mr Monument, marked by you in some manner so that it can be identified?

A: Yes. It is scribed with a metal scribe, 'F-5.' It shows my initials and also the laboratory file number of 3424-74 along with a number that is on this.

Q: Would you care to pick it out over there.

A: Yes, this is the barrel in question.

COMMISSIONER: And this came from the centre portion of the table.

WITNESS: Yes, Mr Commissioner.

COMMISSIONER: So it is part of exhibit 1078?

WITNESS: Right.

MR SHEPHERD: Would this particular barrel then be 1078A, Mr Commissioner, for convenience?

COMMISSIONER: Yes.

Transcript Vol. 65, page 10129

MR SHEPHERD: Mr Monument, how are these tests made? Do you compare the rounds microscopically?

MR MONUMENT: Yes sir. They are compared microscopically and compared against one another.

Q: And then is there some method whereby the two mutants can be brought together?

A: Brought together and the two bullets themselves can be rotated so that the counting surfaces can be compared together.

Q: In the particular case of this identification is there any reason at all to doubt the identification?

A: No sir, it was a positive identification.

Transcript Vol. 65, page 10140

COMMISSIONER: And the markings on those 3 bullets could not in your opinion have been made by any other barrel than that barrel?

MR MONUMENT: That barrel, that combination, right.

COMMISSIONER: And that is why you were able to say there was positive identification?

WITNESS: That is correct, sir.

The laboratory report is entered as exhibit 1102 and appears as appendix 17.

I must conclude from the evidence that the gun barrel, exhibit 1078A, was used to fire three of the bullets which struck the premises of Acme

Lathing on the weekend of 1 July 1972. The evidence established that Yanover had possession of that gun barrel. Yanover did not explain his possession but denied it. In the light of all the evidence his denial was not credible. It is a reasonable inference, therefore, that Yanover participated in the shooting. He was probably hired by those attempting to break up the merger plans of Acme Lathing and Gemini Drywall. The evidence relative to a number of incidents described in this report shows a connection between Yanover and Volpe, and a connection between Volpe and Romanelli. This opens a reasonable inference that Romanelli was somehow connected with this incident.

Bombing, Acme premises, 19 July 1972

This incident was described by Staff Sergeant George Thompson who investigated on behalf of the commission. On Wednesday, 19 July 1972, at 6:00 AM, Police Officers Hamilton and Foley noticed the damaged premises at Frank's Kitchen and Bakery Equipment. The windows and doors were shattered and debris was strewn for a distance of 86 feet from the seat of the explosion. The windows of the Acme Lathing premises were also shattered. Thompson formed the opinion that two sticks of dynamite were used and the damage amounted to \$2225.

Simone stated that Sosin called him on 19 July 1972 about the bombing and he went the next day to see what had occurred.

Although the seat of the bombing of 19 July 1972 was the premises of Frank's Kitchen and Bakery Equipment, these premises are located in the building occupied by Acme Lathing and immediately adjacent thereto. From the front of the building, one could easily mistake Frank's Equipment premises for Acme's premises. The evidence made it clear to me that this bombing was intended for Acme Lathing. The evidence of Sergeant Henderson supported this view. Exhibit 335, sheet No. 2, is a plan of the building. It appears as appendix 18. Unit 7 is Frank's Equipment, while unit 6A is Acme Lathing. Exhibit 336, which appears as appendix 19, is a photo of unit 7 showing the area of the seat of the explosion close to the Acme premises. One would have to be very familiar with the premises to distinguish between the two premises from an exterior view. Sergeant Henderson estimated that two sticks of high order dynamite were required for this explosion.

I concluded from the evidence that the perpetrators of this bombing had fumbled. The shooting of the 1 July weekend had not produced the desired



Figure 9 (appendix 20 exhibit 382)
Gemini truck at 6 Milvan Drive

effect. A more drastic blow was intended to be delivered. That blow went to the wrong premises.

Bombing, Gemini premises, 21 July 1972

Staff Sergeant George Thompson investigated this incident on behalf of the Commission. Police constables Marr, Rickstein, and Ley heard the explosion which occurred at the rear of 6 Milvan Drive. Gemini Lathing occupied new premises at 8 Milvan Drive, and the company's truck was parked at the rear of 6 Milvan Drive, the site of the explosion. Figure 9, exhibit 382, appendix 20, is a photograph showing the building at 6 Milvan Drive and the Gemini truck. The damage amounted to \$4131. A safety fuse with a blasting cap was used to ignite two sticks of high order dynamite.

Simone described a conversation that took place with Sosin, Kanner, Alessandro, and Milani, in which it was indicated that the reason for the bombing was to prevent the merger between Gemini and Acme. He then associated the incidents of violence with additional Acme jobs.

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Transcript Vol. 5, pages 311-15

MR SHEPHERD: Well now you said, 'Don't close up,' and what did you do, if anything, to help them stay open?

MRSIMONE: At that time seems to be that he [Kanner] got a couple of jobs, got Chapel Glen.

Q: Sorry, the Chapel Glen job; then a shooting –

A: Yes. Then he got Cordova down Kipling and Bloor.

Q: Cordova, that is a building?

A: I believe that is a project.

Q: For whom was that being built?

A: Meridian, I believe.

Q: Meridian.

A: And then he got the bombing and when he got bombed – I believe 'Jimmy got the bomb' or something like that – and I told him I would do everything in my power – I told him 'Keep picking up jobs, I will do everything in my power to see you get treated okay with the men.'

Q: That is to say you would try to supply him with men so far as you could?

A: Yes, but to not give up.

Q: You said he got the Chapel Glen phase 2 job and some time after that there was a shooting?

A: Yes.

Q: Then you say he got another job, was there a Belmont job?

A: Was Belmont and Meridian.

Q: Belmont and Meridian?

A: Yes.

Q: You are referring to Chapel Glen now?

A: No, Chapel Glen it is Meridian, then another project for Cordova – I think that is Meridian too.

Q: Yes.

A: Up Bayview and Steeles; I think that is Belmont.

Q: So he bid a job for Belmont at Bayview and Steeles and did he get that job?

A: He got that.

Q: And were others, of course, bidding against him?

A: He got the two, three jobs at the same time.

Q: Who else was bidding against him?

A: I guess everybody.

Q: Yes. You say he got that job, was it a large job?

A: Yes.

Q: How big a job?

A: 15, 1600 suites.

Q: In money what is that?

A: Could be over a million; a million or – I don't know.

Q: Then you say there was an apartment?

A: Yes.

Q: Then he bids and gets Cordova, another large job?

A: Yes.

Q: And you say that is followed not long thereafter by a third bomb?

A: Yes.

Q: Now, do you relate these, the allocation of the jobs and his success in winning the jobs, with the bombings?

A: I don't know, but he said that his competitors could be on it. I said, 'Well, could be just don't give up, try keep taking jobs.'

Q: And he did?

A: He did.

Q: Now, Mr Simone, evidence will be given generally to the effect that on the occasion on one of these bombings – and in fairness I will tell you now that the two witnesses aren't agreed as to which bombing it is – Mr Sossin and Mr Consoli asked him to come over, and they remained there quite late in the evening until past the time when the bombing occurred. Do you remember anything about this incident at all?

A: I believe at that time Mr Sosin came over to my house – we often used to get together because we were working on a blueprint for my house. At that time – I don't know if I called him or we had arranged to meet over at my house – or he called me – I can't recall, but he was over at my house.

Q: That was the night of one of the bombings, was it?

A: Yes. I believe he called me after about two hours, about two hours after I left. I can't recall, but he did tell me.

Simone was sufficiently concerned to speak to Romanelli and it is worth quoting Simone's evidence in that regard.

Transcript Vol. 5, pages 315–16

MR SHEPHERD: Did you say anything to Mr Romanelli?

MR SIMONE: Yes.

Q: What did he say?

A: I said, 'Gus, when things start coming out in the paper indicating that you might have something to do with that,' I said, 'what's going on?' And the answer I got he said 'It's out of my hands, I don't know nothing.'

Q: 'It's out of my hands, I don't know nothing'?

A: Yes.

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Q: At what point in the bombing did this occur?

A: After the first or second time, I forget which occasion, but I remember speaking to him.

Sergeant Henderson filed as exhibit 354, sheet no. 5, showing 6 Milvan Drive. This appears as appendix 21. We observe the seat of the explosion at the rear of a truck bearing the name of Gemini Lathing which, obviously, led the perpetrators to believe that these were the premises of Gemini Lathing, when in fact, they occupied the adjoining building to which they had moved quite recently. Henderson estimated that two sticks of high order dynamite were required for this explosion.

Kanner explained that when the Gemini explosion occurred three days after the explosion at Frank's Kitchen and Bakery Equipment, he accused the Metro Lathing Association members of being involved. They denied it. He then told of the consequences of the shootings and bombings.

Transcript Vol. II, pages 1208-9

MR SHEPHERD: What business consequences were there of you being strafed and then bombed?

MR KANNER: Anybody can imagine morally – actually, morally depressed and no desire for continuation.

Q: Yes. What about your insurance?

A: The insurance, they cancelled our insurance. We had a mortgage on our building, they called in because without insurance they didn't want to leave the mortgage. And we were strapped.

Q: Did you pay the mortgage?

A: Yes.

Q: You yourself had significant means –

A: We had to go to the bank, we had to go to different means and we had to come up with the money.

Q: Roughly, what kind of money are we talking about?

A: Actually, one mortgage was \$75,000 and one mortgage was \$50,000. Quite substantial.

Q: And one of the terms of the mortgage was that you would keep the premises insured?

A: Insured, yes.

Q: And the insurance was cancelled –

A: That's right.

Q: – and you couldn't get other insurance?

A: That's right.

Q: What about customers, were customers helpful or not helpful? What was the case?

A: Some, they were sympathetic, but some didn't want to have anything to do with us because they were afraid, maybe will happen to them something.

The fact that Gemini had now been selected as the victim strengthened my view that these incidents of violence were connected with the proposed Acme-Gemini merger.

Bombing, Acme premises, 2 September 1972

Staff Sergeant Thompson gave evidence on behalf of the investigating officers. Police Constables Reynolds and Smith, while on patrol in the area, heard the explosion at 12:20 AM and shortly thereafter arrived at the site. They observed the extensive damage to the premises of Acme Lathing being unit 6A at 73 Alness Street. This damage is shown in Figure 10, exhibit 343, appendix 22. In addition to the noise of the explosion, the time is accurately established by the stopping of the clock on the premises at 12:20. Again we have an explosion of a high order in which several sticks of dynamite were used. Sergeant Henderson thought two sticks could have done the job. The damage amounted to over \$4165. Sergeant Henderson produced a number of photographs and a sketch showing the Acme Lathing premises and the scene following the bombing. Exhibit 351, appendix 23, is a photo of the Acme Lathing premises numbered 6A. The seat of the explosion was right at the doorway. The perpetrators had finally succeeded in placing an explosion on the premises intended.

In this explosion we almost had an eye-witness. Allan Eggleton had been working at Standard Plastics on Alness Street. At about 11:50 PM on Friday, 1 September 1972, he was returning to the plant from a coffee-break and was proceeding northerly on Alness Street when he noticed a motorcycle parked on the east side of Alness Street in front of no. 73, the Acme Lathing premises. He remembered that the motor was running and that a man was seated on it. Another man wearing a helmet was crouched close to the building. Exhibit 368, appendix 24, is a photo showing unit 7, and the position of the crouched person. He observed the crouched person run to the motorcycle which then proceeded south on Alness Street. Eggleton continued northerly to the shop where he worked unaware of the incident until he learned of the explosion the next morning. He was able to state that the explosion took place at the exact position where he saw the man crouching and he gave a description of the motorcycle.



Figure 10 (appendix 23 exhibit 351)
Acme premises after 2 September 1972 bombing

Transcript Vol. 10, pages 1095–6

MR MCRAE: I think we'd better go into a little more detail of the description of the motorcycle. Do you know motorcycles?

A: I have one brother, an older brother, who is a motorcycle mechanic. My other brother Paul greases motorcycles and also works for Sonic Motorcycles.

Q: Based on your observations that night around ten after twelve, September 2nd, can you describe the motorcycle you saw?

A: I only had a glance at it. I couldn't describe the make of it. But I believed it to be a Triumph.

Q: A Triumph. That's an English bike?

A: Yes. And that was because – I ruled out definitely a Japanese make because of the sound, a very deep, throaty sound. I would put it in the class of an English bike, a four-stroke motor. The bike had – I approached from the rear and it was tilted over on the stand, and the man was sitting on top of it. On the back end there were two straight pipes running out of the exhaust.

Q: Two straight pipes, exhaust pipes?

A: Mufflers, one at each side, I believe. Also some custom work had been done on the bike. It was not a machine you would buy in a store and drive it. He'd worked on it. There was a shorter sort of fender on the back.

Q: The fender had been chopped? Can you buy them like that?

A: I imagine you can buy them like that but it's an item that you adapt. You have bought it separately and then placed it on it. And the gas tanks were a smaller version. That's just for a weight factor. The front end of the bike, the front tire had been moved forward so it was extended, and it had semi-highrise handlebars.

When shown exhibit 370, appendix 25, a photo of Yanover's motorcycle, Eggleton stated that it was similar to the one he had seen.

Transcript Vol. 10, page 1096

MR MCRAE: I am showing you a photograph of a motorcycle with a man sitting on it sort of sidesaddle, speaking to another man. I'd like you to look at that motorbike and tell us whether or not it is similar or if there are any marked differences?

A: This is similar to the bike because of the extended front wheels and the bars are almost the same.

Sergeant Henderson described his findings:

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Transcript Vol. 10, pages 1077-8

MR MCRAE: Did you conclude to your satisfaction what caused the explosion? What type of explosive was used?

MR HENDERSON: Yes, sir.

Q: What was your opinion?

A: Dynamite type explosion of high order.

Q: Would you tell us if this is the case in each of the three explosions?

A: Yes sir.

Q: That is the one on Alness on July 19, one on Milvan, July 21st, and one on Alness, September 2nd?

A: Yes, sir. They are all conducive to dynamite type explosion.

Q: They are all consistent with dynamite type explosion?

A: Yes.

COMMISSIONER: Now, Sergeant, you said they were dynamite type explosions of a high order. What do you mean by a 'high order'?

WITNESS: Well, sir, high order explosion – I would like to differentiate – somewhere around seven to eight thousand feet per second. For instance, a gas explosion would be called a low order explosion or a pushing effect. A high order explosion is somewhere around between nine and fourteen thousand feet a second, it gives a shattering effect as opposed to a pushing effect.

Q: Can you give us an estimate of the number of sticks of dynamite used?

A: Yes. At unit 7A – unit 7, sorry, 19th of July, 73 Alness, it would appear about two sticks. It was consistent with the damage that was caused by about two sticks.

Q: What about 21st of July at 6 Milvan Drive?

A: Yes, sir, about the same.

Q: And Unit 6A on September 2nd at 73 Alness?

A: Yes, sir, about the same.

Q: About two sticks of dynamite?

A: Yes, sir. That is an educated guess, sir.

Q: There is very little residue of dynamite left?

A: There is nothing left of the dynamite itself or the blasting cap. On occasion one can locate portions of the safety fuse and scorching effect and nitrate deposits or residue in close proximity to the seat of the blast.

Bombing investigation

Sergeant Henderson explained that the Metro Toronto Police have an Explosives Unit which carries on intensive investigation whenever explo-

sions occur. These investigations continue until the incident is fully explained. He stated that all of the three explosions which took place as described were caused by the use of dynamite of the type known as high order. A number of dynamite distributors were visited and their records carefully checked. There were no positive results. Exhibit 366, which appears as appendix 26 sets out a number of recommendations for the sale of dynamite. They seem to be taken in the interest of public safety.

These bombing incidents remained in the police files as continuing investigations. It was through this procedure that three months later an incident involving dynamite was immediately brought to the attention of the Explosives Unit and led to the development of a new sequence of evidence.

On 24 September 1973, at 11:40 PM, P.C. Shail of Metro Toronto Police received a telephone call from Mrs William McGraw concerning one stick of dynamite and some caps which had been brought to the apartment by her husband. She was understandably concerned. Police Constables Shail and Gates attended at the apartment and took possession of the dynamite and caps from the refrigerator, which were then turned over to the Explosives Unit, also known as the Bomb Squad. Sergeant Holm of the Bomb Disposal Squad, explained the disposal of the dynamite and caps after completing the usual routine forms. He then identified the dynamite as the type available in 1972 and of the same type as used in the three dynamite explosions at Acme Lathing and Gemini Lathing in 1972.

Transcript Vol. 40, page 5648.

MR MCRAE: Just for the record, these are the explosions at Acme Lathing and a truck that belonged to Gemini Lathing?

A: Yes, Milvan Drive.

Q: Milvan and Alness?

A: Right.

Q: They were all in the order of high order explosives?

A: Yes, this would indicate a high order explosive which is 50 per cent dynamite or any other kind of dynamite – anything from 40 per cent up.

Police Constable Christie and Detective Pearce interviewed William McGraw and learned from him that the dynamite had been obtained from Thomas Andrews at 1865 Davenport Road, Toronto. A search of these premises resulted in the discovery of eleven sticks of dynamite in a shopping bag in a bedroom closet. Figures 11 and 12 (exhibits 905 and 906, appendices 27 and 27A) are photos of the dynamite. Andrews admitted to

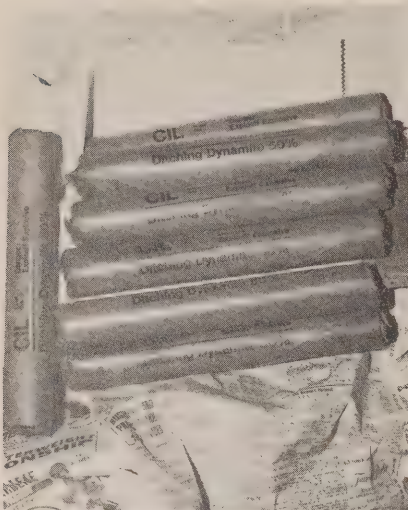


Figure 11 (appendix 27 exhibit 905)
Dynamite

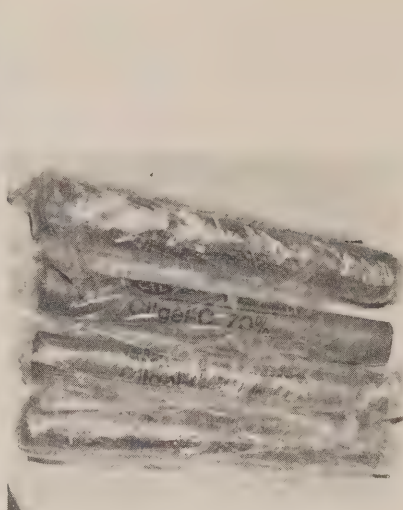


Figure 12 (appendix 27A exhibit 906)
Dynamite

P.C. Christie that he had been in possession of the dynamite for two or three weeks and said he got it from Ross Morell.

Transcript Vol. 40, pages 5655-6

MR MCRAE: Did you have to search for it?

MR CHRISTIE: No, Mr Andrews did not assist, he did not deter us in any way, but we had to find it and then he admitted it. He told us all about it.

Q: Did you have any conversation with him about it?

A: I informed him that he was arrested on a charge of possession of explosives. He was cautioned and he stated that he had the dynamite for approximately two to three weeks. Later we fixed the date in the region of the 22nd of August. This is based on when he moved into this particular apartment. He said that he had been given it by someone who he knew only as Ross. He said that he had been asked to do this by the fellow as a favour and to hold something for him. This Ross had put the dynamite in the apartment at 1865 Davenport and had told him to keep it cool and as a result of that he placed it into the refrigerator. He gave a description of this Ross but could not supply any information at that time. He also told us that the blue bag which, by the way, I had obtained from P.C. Shield later – it was told to me by Andrews that

this had been taken by McGraw on the evening before from his fridge and it contained a stick of dynamite and some caps.

Q: Did you have the blue bag with you?

COMMISSIONER: What was that that Andrews said?

CONSTABLE CHRISTIE: McGraw had taken the blue bag containing the sticks of dynamite and some caps for his friend the evening before.

The trail of Thomas Andrews led to Ross Morell and then to Gerald Foster and Thomas Kiroff. Ross Morell gave evidence and confirmed the evidence of Andrews. Morell was an unemployed, separated, married man, 33 years of age, with a criminal record, exhibit 1088 appendix 28, whose photograph appears as Figure 13, exhibit 1056, appendix 29. He identified Thomas Kiroff as a person well known to him from school days. Kiroff was also an unemployed, married man with a criminal record (exhibit 1086, appendix 30), whose photograph appears as Figure 14, exhibit 1054, appendix 31. In June 1973, they met again after a lapse of some years at the store of Morell's father, 1865 Davenport Road. Kiroff asked for and received information as to Morell's home address, 1000 Dovercourt Road, where he then began to visit quite frequently.

Gerald Foster was an electrician, 25 years of age. He had known Kiroff all his life, but hadn't seen him for several years prior to 1973. In February 1973 following a telephone conversation between Foster and Kiroff, Kiroff brought a parcel to Foster to keep for him.

Transcript Vol. 40, page 5761

MR FOSTER: He just brought the package over one evening.

MR MCRAE: Over where?

A: To the club to have me keep it there for him.

Foster had the use of a locker at the Centennial Street Rod Association, 4010 Dundas Street West, where he worked on old cars. Foster locked the parcel in his locker. Then, in August of the same year he received a telephone call from Kiroff requesting him to deliver the parcel to Morell at 1000 Dovercourt Road.

Transcript Vol. 40, page 5765

MR MCRAE: How did you happen to take it out in August of 1973?

MR FOSTER: I got a phone call from Tommy.

Q: Kiroff?

A: Yes. And he wanted me to bring it down to 1000 Dovercourt.

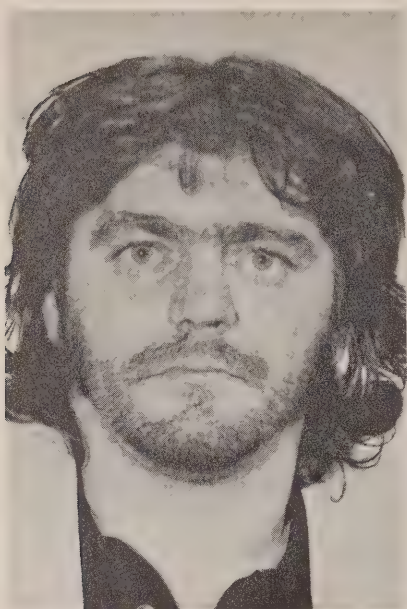


Figure 13 (appendix 29 exhibit 1056)
Ross Daniel Morrell



Figure 14 (appendix 31 exhibit 1054)
Thomas Kiroff

Q: Who lived at 1000 Dovercourt?

A: Ross Morell.

He delivered the parcel as requested and was later informed by Morell that the parcel contained dynamite. Foster expressed his anger to Kiroff who explained that he considered Foster an appropriate person to store the explosive because, without a criminal record, he would not be suspect.

Transcript Vol. 40, page 5770

MR MCRAE: And what did he say? Did he say he had to leave it somewhere or anything like that?

A: It was just that I did not have any record or anything to do with the police and that would probably be a good place to keep it.

Q: He thought you would be a good person to leave it with because you did not have a police record?

A: Yes, sir.

Q: That is what he said?

A: Yes.

Morell confirmed that in August 1973 Kiroff asked him to hold something for him.

Transcript Vol. 40, page 5680

MR MCRAE: Sometime in August did he ask if you would hold onto something?

MR MORELL: Yes.

Shortly thereafter, Kiroff and Jerry Foster came to Morell's apartment. Foster was driving his reconditioned 1934 Chevrolet, which aroused some curiosity from those present. It is a point of interest which confirms the incident. Two packages were taken from the car and placed in the bedroom of Morell's apartment. Morell was asked who carried the packages.

Transcript Vol. 40, page 5683

MR MCRAE: You and Kiroff and Foster and your common-law wife?

MR MORELL: No, she was in the house. We put it right in the bedroom.

Q: You say we put it in the bedroom. This was the second package was it? Who carried it?

A: I believe Jerry.

Q: Jerry Foster? And this was the first package. Where did you put the second package in the bedroom?

A: On the floor.

Morell examined the contents and learned that it was dynamite. He wiped the sticks of dynamite allegedly to remove fingerprints and counted fifteen sticks.

Transcript Vol. 40, page 5683

MR MORELL: Yes, and at that time I looked to see what was in it, I believe.

MR MCRAE: In the two parcels?

A: And I just heard somebody say, I do not know whether it was Jerry or Tommy, said keep them separate. I looked to see what was in it and at that time Jerry said well I've got to split.

Q: He left? Did you look to see what it was?

A: I saw six sticks of dynamite.

Q: How many sticks were they?

A: Tommy Kiroff told me make sure no fingerprints are on them so the wife wiped them off. I counted fifteen sticks.

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Morell stated that the dynamite was similar to that shown on exhibit 363, appendix 32 and he identified the dynamite as that shown in exhibits 905 and 906. He was concerned about keeping the dynamite and was able to pass the dynamite over to Tom Andrews to hold for him. Morell fixed the date of the transfer to Andrews by one of two cheques which were involved in a visit by him to the bank on either 10 or 14 August 1973. With passing time and no specific instructions from Kiroff, Morell urged Andrews to dispose of the dynamite and in September was informed by Andrews that he had done so. Morell was surprised therefore, when late in September, Kiroff telephoned him to express concern over the fact that he had just learned of Andrews' arrest on a charge of possession of dynamite. After the call, Kiroff visited Morell's place where they discussed Andrews' as well as Kiroff's obligation to testify at this Commission.

Transcript Vol. 40, page 5702

MR MCRAE: Did he make any mention of the Royal Commission at all?

A: Well, he made remarks of that prior to all this happening.

Q: You had better tell us about that.

A: Well, just talking.

Q: What did he say?

A: Well, that he had to go to the Royal Commission.

Q: Anything else?

A: No, he never disclosed –

Q: What he was going to be asked or what he did say or anything?

A: No.

Kiroff denied the evidence of Foster and Morell.

Transcript Vol. 62, pages 9069, 9071–2

MR MCRAE: Did you ask him to hold a parcel for you?

MR KIROFF: No. No.

Q: You didn't?

A: No, I didn't, sir.

Q: You didn't bring a parcel to Centennial Rod Association in February of 1973 and ask him to hold it?

A: No.

MR MCRAE: Did you ask him in August of '73 to take a parcel to Ross Morell's?

MR KIROFF: No.

Q: He is lying again when he says that?

A: Yes, exactly.

MR MCRAE: And you didn't ask Morell to hold a parcel for you, it being the same parcel that Foster had been holding since February?

MR KIROFF: No.

Kiroff stated flatly that he had never handled dynamite, never owned dynamite, and never seen dynamite.

Transcript Vol. 62, Pages 9917, 9918

COMMISSIONER: Would you just answer the question? Have you ever seen dynamite?

MR MCRAE: Other than at the Commission.

THE WITNESS: No, I haven't.

MR MCRAE: Have you ever handled dynamite?

A: No.

Q: Have you ever owned dynamite?

A: No, I haven't.

Q: And specifically you did not see any dynamite at Ross Morell's in August 1973?

A: No, I didn't.

Q: You did not have it delivered there at your request?

A: No.

Kiroff was convicted on 5 November 1973 of trafficking in a controlled drug (See exhibit 1086, appendix 30). Then on 18 December 1973 he was released on bail pending his appeal. His concern about his involvement was shown by the fact that he lost no time in communicating with Morell. Morell told about their conversation.

Transcript Vol. 40, page 5708

MR MCRAE: Right. When did you next speak to Mr Kiroff?

A: One day in December.

Q: Under what circumstances did that conversation take place?

A: Well, I was in my father's store about 6:30 at night or so. I seen Tommy pull up along Davenport Road, and I was surprised to see him because he had been in jail. He was – he was in the Don Jail the last time I heard of him.

Q: You thought he was serving a sentence?

A: Yes.

Morell related that in the course of this conversation, Kiroff told him that he had been involved in another bombing, the premises of Randolph Wheatley on Kingston Road, some months earlier, and that the bombing

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had been done at Wheatley's request. This will be discussed below. Later in the same conversation, according to Morell, he learned that Kiroff wanted something done about Andrews.

Transcript Vol. 40, page 5709

MR MCRAE: Can you tell us the conversation as you recall it?

A: He asked me – he said what did they ask you down there. I said that they asked me a lot, I said, if I knew anything about Randy Wheatley's place getting blown up – and he told me that he did it.

Q: Did he say why he did it?

A: Randy asked him to do it so he did it.

Q: This was Randy Wheatley's store out in the East End?

A: Yes.

Q: Did you have any other conversation with him?

A: He wanted something done about Tom Andrews.

Q: Well, would you tell me exactly what he wanted done about Tom Andrews?

A: Well, shot.

Q: He wanted Andrews killed?

A: Yes.

Q: Did he say that to you?

A: Yes.

Q: Did he offer you the opportunity of doing it or why did he say that to you?

A: He figured that we were both involved in it, that presumably we got to get something done about him. I said like – he said we have got to get him done in and I just told him, I said, no, if you want something done you will do it yourself.

On 4 October 1973, Police Constable Stahlbaum interviewed Randolph Wheatley because his pet shop at 1368 Kingston Road had been damaged by a dynamite explosion on 15 February 1973. The police were continuing to follow dynamite leads. Wheatley, in that interview, mentioned the names of Bruno Zanini and Thomas Kiroff. Randolph Wheatley gave evidence at the hearing. He was an unemployed, married man, 33 years of age, with a criminal record (exhibit 1059 appendix 33) whose photograph appears as Figure 15, exhibit 1060, appendix 34. He was friendly with Kiroff and Morell, both of whom he had known from school days. In 1972 he began to operate a pet shop and, on 15 February 1973 an explosion occurred inside the store. Wheatley said that he did not ask Kiroff to set off the explosion, but that Kiroff did have a key to the premises.

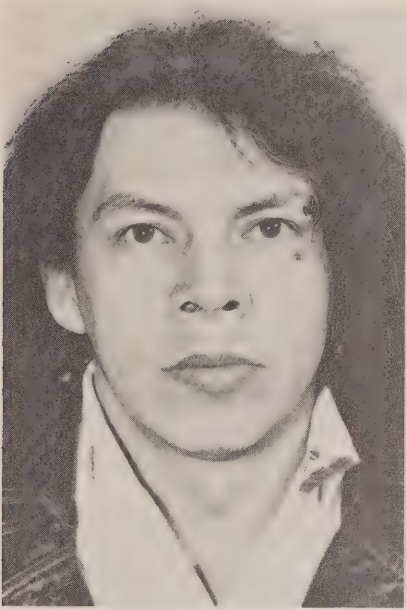


Figure 15 (appendix 34 exhibit 1060)
Randolph Wellington Wheatley

Kiroff testified that a conversation had taken place but blamed Morell.

Transcript Vol. 62, page 9084

WITNESS: That is something. I had a conversation with him but it is the other way around. He was telling me something like that but like I can't prove it. I can't prove it so I am not going to say something about a man that I can't come here and say what he said to me and not prove it to you people what I heard so I am better off not to say it. I don't want to condemn somebody.

Kiroff then discussed the evidence which he proposed to give to the Royal Commission and he told Morell that he was going to deny everything. He did. Then, according to Morell, Kiroff suggested that his own lawyer act for Morell as well and for that purpose he wrote out the name and phone number on a piece of paper. Morell retained that piece of paper, which now appears as exhibit 914, appendix 35.

Kiroff agreed that he gave the paper with the information which

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appeared in his own handwriting, but said that the incident had taken place several months earlier and was merely a general recommendation of a lawyer. His explanation of an earlier date is false. There is a date stamp on the back of the paper: '21 DEC 1973.' It is a fair inference from the circumstances that 21 December 1973 would be the earliest date on which the paper could have been used.

Another clue to Kiroff came from the evidence of Morell. He said that, at another time, Kiroff being concerned about Wheatley, put an alarming proposal to him.

Transcript Vol. 40, page 5720

MR MCRAE: Did you ever have any conversation during August or in the summer with Kiroff in which he was referring to Randolph Wellington Wheatley?

MR MORELL: Yes.

Q: Would you tell us about that?

A: He had bad feelings with Randy, said that Randy was turning on him.

COMMISSIONER: Who said this?

WITNESS: Tom Kiroff, and if I was interested in doing a contract for Randy Wheatley.

Q: Interested in –

A: If I was interested in –

Q: In killing?

A: Yes.

Kiroff denied that such a conversation took place.

Transcript Vol. 62, page 9907

MR MCRAE: Did you have that conversation with Mr Morell during the summer of 1973?

MR KIROFF: No, I didn't.

Q: You didn't?

A: No.

Q: Did you have any conversation with him revolving around the killing of Randy Wheatley?

A: No.

Also in December 1973, while Kiroff was on bail, he contacted Foster in an attempt to influence his testimony.

Transcript Vol. 40, page 5776

MR MCRAE: What conversation did you have with him in the middle of December?

MR FOSTER: He just seemed kind of upset that I had been talking to the police and that maybe somehow I could change what I had said.

Q: Yes. Can you give us any more detail of the conversation than that? What did he say exactly?

A: He thought that maybe I could change Toms rather than have him implicated.

Q: Change Toms?

A: Yes, to Tomcat.

Q: And say you were holding it for Tomcat Andrews instead of Tom Kiroff?

A: Yes.

In the course of his evidence, Kiroff denied the testimony of three of his old friends, Foster, Morell, and Wheatley.

Transcript Vol. 62, pages 9073-4

MR MCRAE: Foster perjured himself; Wheatley perjured himself; Morell perjured himself; you are not perjuring yourself?

MR KIROFF: That's right.

I am unable to put any reliance on the evidence of Kiroff. If there was any truth to his denials one would have expected him to be eager to come forward and openly state that what had been alleged against him was not true. On the contrary, he sought to avoid giving evidence at a public hearing and when he was finally obliged to appear his actions and behaviour as a witness, as well as the inconsistencies and improbabilities in his testimony, made his evidence completely unacceptable. Foster and Morell could not have fabricated the evidence they gave. There is physical confirmation of Morell's evidence in the piece of paper (exhibit 914).

My impression of Kiroff's evidence at the time that it was given is shown in the following exchange, when he was being asked about how frequently he saw Yanover:

Transcript Vol. 62, page 9024

MR KIROFF: I cannot say for sure.

COMMISSIONER: You said that. You keep changing your answer. You are saying one thing and by the time you have finished your sentence you have changed.

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THE WITNESS: Well, I can't remember that far back, Your Honour.

COMMISSIONER: Well, if you cannot remember something say you cannot remember. But I find it strange you cannot remember something two years ago. You do not mind if I say I do not believe you when you say you cannot remember two years ago.

WITNESS: I don't mind, sir.

In summary, dynamite of the same type used in the three bombings was located by the police. That type was available at the time of the bombings but not later. It is a reasonable inference from the evidence that Kiroff had possession of that dynamite. The close ties between Kiroff, Foster, Morell, and Wheatley were apparent. Kiroff and Yanover were friends. The motorcycle used in the September bombing bore a close resemblance to Yanover's. The association of Yanover with Volpe has already been observed. Incidents described later in the report show that Kiroff was well acquainted with Zanini. It is apparent that the shooting of the Acme premises and the subsequent three bombings were prompted by the same motive. There is a reasonable inference that Yanover was involved with the shooting. The following chapter on payments will indicate the probable source of money to pay for the commission of these acts of violence. All of this could not be mere coincidence. It is a fair inference from the evidence that the violence was instigated to intimidate people to prevent the merger of Acme and Gemini and probably to clear the way for Romanelli and his associates.

Shooting of Bruno Zanini, 23 August 1972

Bruno Zanini entered the labour scene in 1955. He became president of the Bricklayers' Union, Local 35, and in 1957 when that local merged with the Bricklayers' Union Local 2, he became a business agent. In the early 1960s he was associated with Charles Irvine in the organization of the construction workers in the residential sector. In 1963 he was sent to prison as a result of a conviction for the possession of burglar tools. After his release from prison he assisted in the organization of the concrete forming workers undertaken by Simone through Local 562. He was engaged in this activity in 1968 and 1969. Then he continued his activities on behalf of the Canadian Concrete Forming Union 1 during its brief existence in 1969. His next activity was on behalf of the Canadian Union of Construction Workers, from which he was dismissed in 1971. There followed a short stint with Local 733 through Charles Irvine, which ended in October 1971.

It would appear that his efforts to organize labour were not very effective from the time of his release from prison in 1968. He continued with

sporadic efforts to form a union up to the very day of a strange shooting incident.

He was shot in the leg by unknown assailants in the basement garage of his apartment building on 23 August 1972 at about 2:00 PM. That very morning he had been talking to Romeo DiBattista to raise money. Zanini described it as money to be advanced by DiBattista for union organization, while DiBattista described it as an ordinary loan sought by Zanini.

As Zanini was the only eye-witness, it would be fair to use his own words to describe what took place.

Transcript Vol. 45, pages 6437-9

MR ZANINI: I couldn't see very much, I could just see so much of the side of his face, looked smooth, I could see he was dark hair, sort of a little bit of a tinge of olive oil complexion but he was scruffy, maybe a long beard or big beard, something hasn't shaved, and that's as far as it went. I didn't pay any more attention.

MR SHEPHERD: And you didn't see the other man at all other than to realize there was a man there?

A: There was two of them, one was very dark complexion, the one that turned his back to me was fair. I imagine he was about 5 foot 9, the fellow in the dark complexion that came towards me, he was sort of a slight - maybe 5 foot 6 or seven.

Q: Would it be correct to say you told the police on their arrival that one man was as you have described, and really all you can say about the other man was that he was male and he was white; is that correct?

A: That's correct.

Q: What did you do?

A: I proceeded to my car, 287, the slot where I had my car, got into it and the car just wouldn't start. I did it four times, what the heck comes here. As I stepped out there was a fellow with a flashlight kept putting it in my face. I paid no attention, I thought maybe it was a joke or something, so I just don't pay any attention but just as I got in front of my door, he was twelve feet approximately, give and take, I couldn't say for sure, Mr Shepherd, I figure around that and the flashlight was constantly in my face. He said, hold it, don't move, ping, ping. It was all over.

Q: You indicate two sounds?

A: Yes.

Q: Are you hearing two shots or one shot and an echo?

A: Well, you know, I am practically deaf in my right ear. I heard ping, ping, just like that.

Q: Did you feel something strike you?

A: Oh, yes, very sharp and my leg just buckled and I went down. Then all of a sudden, just seeing like that, and I turned around and looked and the fellow got into the station-wagon and they drove away. I looked, it was a white coloured one with a purple or red stripe in the centre right across the body.

Q: And that's all he said to you, just hold it?

A: Hold it, don't move. Ping, ping, that was the end.

After the shooting someone phoned his apartment and told his sons that he had just been shot. The children arrived immediately armed for battle, but of course, the assailants had fled. Zanini expressed his views as follows.

Transcript Vol. 45, page 6450

MR SHEPHERD: Can you assist us as to anything else surrounding the events of the shooting itself, or do I have it all now?

MR ZANINI: Well, leading to the shooting, why I was shot – or was this what you are referring to Mr Shepherd? I have ideas why I was shot, but I am not certain. And I am not sure as to the reasons why they wanted to shoot me, the motives.

Q: So long as it is understood it is your surmise, is it correct to say that your surmise is that someone in the labour movement resented your activities in going about speaking to the men?

A: And the contractors.

Q: And the contractors as well?

A: Positive. Positive. That is why the contractors are all paying the men right now. There is no chiselling going on because this Royal Commission is sitting.

Detective Sergeant Murray Crawford investigated the shooting. The police had arrived within minutes. Exhibit 945, appendix 36, is the hospital and medical report.

The leg wound required two days of hospitalization. Exhibit 948, appendix 37, is a laboratory report of the bullet which was extracted from Zanini's leg. It was established that the shooting was not accidental and was not self-executed. It was learned that Zanini's motor car had been sabotaged so as to cause a delay in starting.

The police received information that a person known as 'The Angel' had received \$1500 to do the shooting. The nickname file of the police records revealed the name of Frank Veltri. A search of his apartment led to a charge of possession of stolen goods and, as he refused to reveal the source of

these goods, the police were justified in continuing their investigation with the assistance of a wire tap on his telephone. Exhibit 950, which follows, is a verbatim transcript of a tape recording of a conversation between Frank Veltri and a female friend which took place on the 14th of January 1974:

MJ: Hello

FV: Hello

MJ: Hi

FV: What are you doing?

MJ: Ah ... just getting rid of some work.

FV: Yeah

MJ: What are you doing?

FV: Nothin ...

MJ: What ... what ... ah ... do you hear out?

FV: What?

MJ: What else are you hearing?

FV: Wh ... what do you mean what else am I hearing?

MJ: About ... you know ...

FV: Huh?

MJ: About ... nothing else eh?

FV: What ... about the thing?

MJ: Yeah

FV: Did Jim get his car started?

MJ: Why? Is that what you phoned him for?

FV: No ...

MJ: Well ...

FV: No, I called him earlier, he said he was getting his car started – my car won't start.

MJ: Do you live at 95

FV: Havenbrooke Boulevard.

MJ: Yeah ... ah ... Jim has just gone down now to see if it will start.

FV: Yeah.

MJ: Is he picking you up?

FV: No, he's going to try and get my car started ...

MJ: Oh ...

FV: ... because he's got cables he said.

MJ: Oh, yeah

FV: I don't think his car will start, it's too goddamn damp out ...

MJ: Is it?

FV: ... I left mine sitting for those two days, eh?

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MJ: Oh, you haven't touched it, eh?

FV: No, I ... I could touch it now, and it won't start this morning ... sonofabitch ...

MJ: He ... he's just left about five minutes ago.

FV: Yeah .. I don't think he'll start it.

MJ: He took some stuff with him out to the car ... you want to talk to ... oh ... you're ... you're a dingbat, you know that ...

FV: Why?

MJ: Because you are.

FV: I'm in a lot of trouble now ...

MJ: Are you? More?

FV: Well, if I don't go to jail here – I'm gone for sure now.

MJ: Why

FV: With these charges.

MJ: Well, can they pin that shooting on you?

FV: Umm ... if they find the gun.

MJ: Have you got it?

FV: Nope.

MJ: Did you have it?

FV: (Laughs) I'm not saying nothing.

MJ: Oh ... you son of a gun. Well, throw it in the river.

FV: I know

MJ: ... very much.

FV: I don't understand these – somebody put the finger on me.

MJ: Well, is it the Monarch?

FV: Uh?

MJ: Is it the Monarch?

FV: That's what they said.

MJ: You think it is?

FV: Yeah

MJ: ... understood the ... the time you spend in that place you know ...

FV: I know

MJ: Oh ...

FV: I'm stupid.

MJ: You should find yourself a new hangout. What ... what did ... what did Jonesy say?

FV: Jonesy never said nothing.

MJ: Did he know about it?

FV: Yeah ... sure, he knows about it.

MJ: Do you think he had anything to do with it?

FV: Huh?

MJ: Do you think he had anything to do with it?

FV: No, but that bastard's got a big mouth. I didn't want anybody to know I was pinched, eh?

MJ: Yeah.

FV: I phoned the Monarch yesterday to talk to him and he switched shifts, or something.

MJ: Yeah.

FV: ... because of his son who was playing hockey, so – he switched shifts and he's ... ah ... ah ... somebody knows already ... Doc, in the Monarch. Doc told me, vice versa. I'm gonna get nailed on one. And plus, I might have to be called up on that Inquiry.

MJ: But listen, I ... I did a bit of research into that guy ... that guy ... you know, that guy you was supposed to have you know what ...

FV: Yeah he's a ... he was a Labour ... ah ...

MJ: Yeah ... but he's a fink anyway now ...

FV: He's a ... I know, he's a stool pigeon ...

MJ: He belongs to the Mafia ...

FV: Yeah ... No, he don't ... no ... he's a stool pigeon. He was coppin out on all the Mafia.

MJ: Well, he's no good, anyway.

FV: I know ... You know what one copper said?

MJ: What?

FV: ... to me in the station?

MJ: Should have finished him off.

FV: He says ... ah ... how come you missed? Why didn't you do a good job to him?

MJ: That's what I mean ... he was no good.

FV: Because they don't like him anyways, you know ... said lookit, if that ... if that was me I says, I would've done a good job to him (laugh) that's right ...

MJ: Were you supposed to get 15 for that?

FV: Yeah

MJ: Did you?

FV: No ... (laugh)

MJ: (Laugh) Oh ... I wouldn't like to ... I wouldn't like you to get mad at me ...

FV: (Laugh)

MJ: ... Cripes ... I wouldn't need to have my cartilage taken ... taken off ... you'd shoot them off ...

FV: (Laugh)

MJ: Anyway, I'm going to be late for work with all this ...

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FV: Okay dear ... I'll ...

MJ: ... treat this morning ...

FV: (Laugh) if I don't see ... talk ... I'll talk to you tomorrow. I'll probably be around tomorrow morning.

MJ: Okay.

FV: Okay?

MJ: Yeah.

FV: Alright.

MJ: Bye-bye.

FV: Bye-bye.

Frank Veltri gave evidence. His normal occupation is that of a bouncer and he is known by the nickname 'Angel.' He was unemployed at the time and drove a motor car registered in another person's name. He had met Zanini some years earlier.

The telephone conversation is quite specific. It is to be noted that the other person speaks of the shooting first. Veltri complained that someone put the finger on him and that he is in a lot of trouble and will be charged if the gun is found. There is talk about payment of \$1500 for the shooting. Veltri admitted the conversation but said that it was made up to impress his friend. This does not appear to me to be an explanation that might reasonably be true.

Transcript Vol. 45, pages 6484-5

MR SHEPHERD: And then you say, 'I am in a lot of trouble now,' and then you start telling her about these charges and about the police coming in and all those things. And you had already told her the previous day, on your evidence.

MR VELTRI: She thought that I had really done the shooting, and I made her think that way.

Q: Now you are being of some assistance to me, Mr Veltri. How did you make her think that you had something to do with the shooting? What did you tell her?

A: I didn't tell her I did and I didn't tell her I didn't. I just sort of, you know, said, you know, like - she just ... I laughed, and she figured I had done it, you know. I said '1500.' I said, 'Well, I haven't got the 1500. I was supposed to get 1500 for it.' That is why she asked me about the 1500.

Q: So you did tell her you were supposed to get \$1500 for the shooting? You told her that; is that right?

A: Yes, sir.

Q: But that wasn't true?

A: No.

Q: That was not true?

A: Nobody approached me and offered me 1500 to shoot him ... I can swear to that.

Q: The only reason that you would call this woman and in the course of the conversation say that you had been offered \$1500 was because you just wanted to impress her?

A: That is true.

It is evident that Veltri's friend could not have researched Zanini if she had in fact just heard of him. I am led to believe that the shooting was inspired by Zanini's activities in the construction industry. This belief is further strengthened by the evidence of Morell who testified that he was told by Kiroff that he had been offered the job of shooting Zanini.

Transcript Vol. 40, page 5723

MR MCRAE: Did Kiroff tell you anything about Bruno Zanini being shot?

MR MORELL: I knew that. I heard it on the radio.

Q: Did Kiroff tell you anything about a possible involvement that he could have had?

A: That he was offered the job.

Q: Did he tell you who asked him to shoot Zanini?

A: No.

Q: Did he tell you anything more about it, who was involved or how much money he was offered?

A: No.

It appears likely that Veltri became involved in the shooting of Zanini to earn \$1500. The motive for the shooting could not be established mainly because neither Veltri nor Zanini told all they knew about the event. It is a reasonable inference that Zanini was being intimidated but there was not sufficient evidence to indicate the motive.

Jean Guy Denis threatened, Ottawa, 1971-2

Jean Guy Denis was the business manager of the Lathers and Plasterers Union Local 124 at Ottawa. His jurisdiction comprised an area around Ottawa and Hull, thus including a small area in the province of Quebec.

In 1971 DelZotto Enterprises Limited was involved in Ottawa in the construction of apartment buildings through the Ontario Housing Corpora-

tion. In May 1971, as was to be expected, Romanelli appeared on the Ottawa scene to undertake the lathing and drywall contracts. Romanelli had hired Luppino in the spring of 1971. Now, in the summer of 1971 he hired Zappia. Local 124 had a collective agreement applicable to the Ottawa area. Denis asked Romanelli to sign up and employ local workers. Romanelli wanted a piecework arrangement which of course was anathema to Denis. Both Natale Luppino and Joseph Zappia were present on the occasion of that conversation. Luppino threatened Denis.

Transcript Vol. 8, page 739

MR DENIS: During the course of this conversation the fellow who was introduced to me as his brother threatened that if, you know, he had a powerful organization and they were doing well and had lots of work coming up in Ottawa. They felt they could take over the market now as a matter of fact, and that I might be wise to consider Romanelli's proposal because otherwise I might never make it home tonight. I might get run over or something.

MR MCRAE: You might never make it home tonight?

MR DENIS: Because a car might run me down. So, you know, this is the first time the fellow ever opened his mouth. As a matter of fact I never heard him speak before.

Q: And this is the person who later identified himself as Natale Luppino?

A: Yes. At this point I simply replied, what the heck I thought he was bluffing me. So I said it's been tried before but whatever you do don't miss, that's all. Everybody started to laugh and Romanelli told him not to talk anymore, to keep his mouth shut.

At a subsequent meeting in June 1971, Simone and Ken Weller were present in addition to Luppino and Zappia. Weller was an international representative of the Lathers union. Simone actively urged Denis to accept the Romanelli proposal. Luppino again made threats.

Transcript Vol. 8, pages 748-9

MR MCRAE: Are you saying - I am not trying to put words in your mouth - but are you saying Simone was in favour of you signing a piecework agreement with Romanelli?

MR DENIS: His words were to the effect, as I stated before, and left me with the impression that I should go along, there's nothing wrong with it, and he is a good guy and a good friend and there will be no problem. Yet when we got into this type of conversation I guess my approach to Ken Weller left me with the feeling that Ken was very uneasy or felt bad about being there in the first

place. I had met the man several times before and discussed many things with him, and I felt on this particular occasion when this subject was brought up, I was being – instead of being helped to get something, I was more or less being led to believe that I should go the other way. Ken Weller felt – said this, and walked away. The rest of my conversation was mainly between myself and Simone and the people that were there, Luppino, Romanelli, and Frank Zappia. Again we left the job site for the LaPaloma Restaurant and I was again seated next to my friend Luppino and directly across the table from me was Gus Simone and Ken Weller. Now in the course of this conversation I was again threatened by Luppino, the same line of thinking, that I might not make it home that night unless I considered his offer. I complained – my address to Gus Simone was one of complaint more than anything else. This is the type of people you deal with? What's going on? And Ken Weller got up from the table and walked away, so Gus and I kept on talking. And he told me, you know, this guy never talks very often, this is his way of joking.

Romanelli proposed that Zappia be used to physically take care of dissident union members in the event that Denis accepted Romanelli's proposal. Denis proved to be a stubborn opponent. On 19 September 1972, Romanelli again urged the acceptance of his piecework proposal with the backing of a threat by Zappia.

Transcript Vol. 8, pages 779–80

MR DENIS: That's right, and there wouldn't be a problem there. And I said, well, you know, I never thought there was a problem before. Since this has happened you bring it up. So at this stage we got into again the conversation and he felt that I should very seriously consider a piece work agreement. So Vince Zappia was sitting there next to him – up to that point he hadn't said anything – he got up and said, 'What the hell do we have to do to make you understand that you should protect your members? Do we have to break your back or something?'

MR MCRAE: He said, 'Do we have to break your back to make you understand?'

A: And at that point Romanelli told him to do something, he sent him to do something, and he left the building.

The Ottawa-Hull area is considered as a single unit not only by the Ontario-based unions, but also by the Quebec-based unions. A majority of the employees live in Quebec but work in Ontario, thus, Denis comes into conflict with Rosaire D'Aoust, the business manager of the International

Union of Glazers and Painters, with headquarters in Montreal. He presumes to have jurisdiction for the entire province of Quebec. The labour laws of Quebec provide for the imposition by government decree of union representation and working conditions throughout the province. In order to leave the employee free to join the union of his choice, there is provision for an annual 40-day open period which has become known as the 'raiding campaign.' During this period, unions are free to sign up employees who had previously been members of some other union.

On 4 September 1972, in preparation for such a campaign, the unions affiliated with the Quebec Federation of Labour comprised of international unions were meeting at Trois Rivières, Quebec. The Plasterers' Union and the Glazers' Union are both members. Denis was approached by D'Aoust in the washroom of the hotel where the meeting was held and threatened with death if he continued to organize in the Ottawa-Hull area.

Transcript Vol. 8, page 797

MR DENIS: Now, D'Aoust first of all walked up to me and, of course, I turned my back to make sure I had my back to the wall, and he told me bluntly that if I didn't stop organizing in taping that he would break my legs and my arms. So I said, 'You go to hell.' 'Well,' he said, 'If you don't stop I am going to kill you.'

We also find that Joe Zappia, on behalf of Romanelli, is negotiating with D'Aoust.

Transcript Vol. 8, page 805

MR DENIS: I will be able to qualify that a little later because of the meeting that took place the next morning and the conversation I had. I proceeded to another job site where Romanelli had employees, and that was the Galloway Realty job on Fisher Avenue in Ottawa, and on that job I had four men who had previously signed with us and were still members of our union and I approached them and asked them if they had been approached that very day by people who asked them to sign with their union and they said yes. This was approximately between the hours of 12:00 noon to 1:00 in the afternoon, and they indicated that they had been approached by Frank – I know today Joe – Zappia, but Frank then, and had been told they had to join the painters union or else they would be removed from the job. I asked if they had signed and they said no, they had been given until later in the day to make up their minds.

Transcript Vol. 8, page 807

MR DENIS: Vince, whether he meant to do it or not, he told me that a meeting

had been held the night before in Hull between Rosaire D'Aoust of the Painters, Joe Zappia, a business agent of the Painters for Hull, and I did not know his name then but I do now, Robert Benoit.

Q: MR MCRAE: I think you had better spell that for the Reporter.

A: Robert R-o-b-e-r-t, and the family name, Benoit, B-e-n-o-i-t. So there was Joe Zappia, Rosaire D'Aoust, Benoit, and the business representative of the Painters from Toronto, Armand Colafranceschi, and of course these are the men who the following day arranged to meet on the job of Romanelli the next day and sign the men up and apply for certification.

Zappia called a meeting of subcontractors in Ottawa on 23 January 1973. He distributed the card of the International Brotherhood of Painters and Allied Trades, exhibit 1035, appendix 38. He stated that he had called the meeting on behalf of D'Aoust's union in which he was, according to the evidence of Dominic D'Angelo, the owner of D'Angelo Plastering of Ottawa, seeking to get a job.

Transcript Vol. 58, page 8553

MR MCRAE: Who called you for that meeting?

MR D'ANGELO: Also Joe Zappia.

Q: Joe Zappia?

A: And that's when I asked Joe Zappia I said: 'What are you doing,' you know.

Q: What's Joe Zappia doing?

A: Yes. 'What is your position?' And he said: 'I am looking for a job, to get a job on the union.'

It is to be noted that Zappia who was hired by Romanelli was active in the organization drive for D'Aoust's Quebec based union.

The threats which D'Aoust made to Denis were continued at a subsequent meeting at Quebec City in October of 1972. D'Aoust agreed that the international unions should co-operate during the raiding campaign. He added, however, that he would personally see that Denis was taken care of after the campaign was over.

Transcript Vol. 8, pages 812-13

MR DENIS: I attended another meeting in Quebec City subsequent to this problem. I believe it was in October. This was just previous to the campaign getting underway in Quebec. And I was travelling by air. Normally I should have been in Quebec in time for the meeting but because of problems that

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developed in the aircraft we had to stop in Montreal. I came into the meeting in Quebec City. The meeting was held at the Holiday Inn.

MR MCRAE: This was in October?

A: In October.

Q: '72?

A: '72. And it was in the L'Abbé Room.

Q: L'Abbé?

A: Like a monk. But at any rate this is what the room was where the meeting was held. And I walked in there late, and at that time D'Aoust was really flying high. He was relating how he was undergoing problems in Quebec as well as the Ottawa area. And he again threatened to do, to physically take care of me, in front of the whole meeting, at which time he was brought to order by the chairman of the meeting and advised that, because of the campaign getting underway, it was very vital for the FTQ or international union to not have any feuds amongst themselves and concentrate their efforts in trying to raid the CNTU; therefore, all of these threats should be removed for the duration of the campaign.

Q: And after the campaign is over?

A: He nevertheless pointed his finger at me, and I'm telling you there were probably 300 people in the room, that unless I stopped organizing, then by the time the campaign was over he would personally –

Q: Stop organizing drywall tapers?

A: Yes. That he would personally see that I was taken care of at the end of the campaign.

This threat was followed by a telephone call to Denis' mother during the Christmas week of 1972.

Transcript Vol. 8, pages 814–15

MR DENIS: I returned home, and the week of Christmas my mother – you see my number is not listed in the phone book, my home number, but we have a telephone answering service that provides 24-hour service to our number. And if it's urgent that I be reached the operators have my number at home and she calls me or my wife or my mother. So this man called and spoke to my mother and asked her if she had a son by the name of Jean Denis, and she said yes. So he said, 'You can tell the s.o.b. that we'll kill him.' You can imagine – my mother is in her late seventies, and she was quite disturbed. I found this out over the holiday season.

Obviously Denis was being intimidated by D'Aoust to compel him to restrict his recruitment of union members. Denis, however, proved to be a

determined opponent, for which he deserves credit. Sterner measures were then adopted.

Assault on Paul Denis, 8 January 1973

On 8 January 1973, at about 5:00 PM, two men entered the Denis home in Ottawa. Denis was absent and they encountered his sixteen-year-old son, Paul. Saying they had a message for his father, they struck him and knocked him unconscious. This was a despicable and cowardly act.

Transcript Vol. 8, pages 815–16

MR DENIS: On January the 8th, 1973, about five o'clock, or very close to five o'clock at night – I should outline here that for the past 10 years I have learned, because of the nature of my job, never to maintain regular activities. I always break my hours and try not to establish a pattern of any kind. But for some reason from the middle of December or early December I had been coming home every night at five o'clock. This was unusual. But at any rate on the 8th of January at approximately five o'clock two men came to my home. My son was watching television, sitting in what we call the TV room, a small room in the back of the house.

MR MCRAE: That is your son, Paul?

A: My son Paul.

Q: Who was 16 years of age at that time?

A: Yes. And of course when he heard the bell ring he came to the door and two men forced their way into my home and pushed him toward the dining room and told him that they had a message for his dad. And the message was that I was to lay off and keep my Goddamned mouth shut. Those are exactly the words that were used.

At one point before the conversation was finished apparently he struck my son and he was knocked unconscious.

Paul Denis described the incident as follows.

Transcript Vol. 8, pages 872–3

PAUL DENIS: The door bell rang and I answered the door and there were two men standing there, a tall black man and a short white one.

MR MCRAE: Can you give us a description of the black one, how tall he was and what he was wearing?

A: He was about six feet tall and he had a knee length suede brown coat and brown gloves, something like a racing car driver with holes in the knuckles and a snap on the wrist.

Q: Who spoke?

A: The black man first. He did all the talking.

Q: Did the smaller white man do any talking?

A: No. He asked me if my father was in and I said no and the white man pushed the door open and the black man walked in first about five feet into the room and leaned on the bannister.

Q: How far in the house would he be when he was leaning on the bannister?

A: Six feet.

Q: From me to you now?

A: Yes. While he was walking in he was pointing his finger at me and talking and I did not know what was coming off so I started to walk back and he said, tell your father to lay off and to give him this message and he punched me on the side of the mouth and I passed out ...

The following morning someone was observed trying to break into the Denis home and two weeks later Denis' car was damaged under suspicious circumstances.

It is indeed significant that although Rosaire D'Aoust was subpoenaed to attend the hearings which opened at Ottawa on 25 February 1974, he chose not to appear.

Transcript Vol. 57, page 8348

MR MCRAE: Mr Commissioner, it has come to our attention that Mr Decary from Montreal is here. He appears for Mr D'Aoust.

COMMISSIONER: Is Mr D'Aoust here, Mr Decary?

MR DECARY: He is not.

COMMISSIONER: Then who do you represent here?

MR DECARY: No one. The subpoena was issued and Mr. D'Aoust remitted the subpoena to me for advice. After studying the act under which authority to issue the subpoena was taken, I advised my client that it was not necessary for him to be present this morning. However, in order to protect my client, I am present this morning.

COMMISSIONER: I do not think you have any status here. You only have status here if you represent someone who has recognized the jurisdiction of our summons or subpoena. If he does not have any interest, then I do not know what you are doing here, other than to come here as a friend of the Court to advise us that your client is not appearing.

MR DECARY: That is correct.

We have seen how Romanelli hired Zappia as his man in Ottawa. We have also seen that D'Aoust, from a Quebec base, sought to extend his influence into Ottawa. It is of some interest, therefore, to find Zappia taking

an active part in promoting D'Aoust's union among the Ottawa subcontractors. The link between Romanelli in Toronto and D'Aoust in Montreal should be considered in the light of the evidence of Superintendent Routledge, which comes later in the report. One may find that there was a common thread running through all of the previously described acts of violence.

Threats to Patrick Daly, Hamilton, 9 June 1971

Patrick Daly was a small plastering and lathing contractor carrying on business in Hamilton. In 1971 he became involved in union jurisdictional disputes. Charles Guagliano, the business manager of the Carpenters Union Local 18 in Hamilton, was negotiating with Daly who already had a collective agreement with another union. On 9 June 1971, he went to Daly's home to get a proposed agreement signed. According to Daly the following conversation took place.

Transcript Vol. 55, pages 8153-5

MR DALY: Mr Guagliano came to my house to talk over our problems we were having, and to get me to sign. I guess it was to get me to sign a carpenters' agreement. I told him under the circumstances there was no way I could sign an agreement because the agreement I had with the lathers' Local 145 was exactly the same terms as the agreement he wanted me to sign and I would either be sued by them or by the lathers.

MR MCRAE: Did the conversation get a little heated?

A: We got into a heated conversation, he told me that if I didn't play the game I would have to accept the consequences.

Q: Anything else? Was your wife present at the time?

A: My wife was present at the time.

Q: Was there anything else said that you can recall?

A: I don't know if it is fair to bring up what my wife said that she heard that I didn't hear or not.

COMMISSIONER: Is she here?

WITNESS: Pardon me?

COMMISSIONER: Is she here?

WITNESS: No.

MR MCRAE: If necessary -

WITNESS: My wife will come.

Q: What was it she said?

MR SIMPSON: Maybe if she is going to be called ...

COMMISSIONER: I will hear it from him.

WITNESS: I see Mr Guagliano shaking his head there and I didn't want to bring this. I have a tape recording of the whole conversation my wife had taped during that day. I didn't want to bring that because I thought it was unfair and I wish that he wouldn't shake his head at me, Your Honour.

COMMISSIONER: Well, stop shaking your head.

WITNESS: My wife said what would the consequences be, and I didn't – I didn't actually hear this and then I heard him say about pulling men off the job and stuff like that, and my wife said he said it's too bad your family has to suffer for this.

Q: Do you have children?

A: Yes, I have children.

Q: How many?

A: Three boys

Q: Three boys.

A: And I must say after this incident and for a year later me and my family went through hell because of Local 18.

COMMISSIONER: What do you mean by that?

WITNESS: My wife was – pretty near had a nervous breakdown.

Q: Were there further things occurred?

A: We received and I can't say this was Local 18, but we received threatening phone calls: 'Is this Mrs Daly?' 'Yes.' 'You tell your husband to lay off or else.' She received three different phone calls on three different occasions. I went to Mr Dean to try and straighten my problems out because of my family.

Mrs Daly heard part of the conversation and stated that Guagliano spoke as follows.

Transcript Vol. 55, pages 8187–8

MR MCRAE: Do you recall the conversation? Do you recall anything said to your husband that caused you any alarm or anything like that?

MRS DALY: Yes, when Mr Guagliano first entered our home he made a very slight reference to the death of our son saying too bad you lost a kid or something and then later on in his conversation he kept mentioning, first of all, you will have to pay the consequences.

Q: You will have to pay the consequences of what?

A: Well, nothing, really, just, you will have to pay the consequences, so at one point, if we did not sign the agreement we would have to pay the consequences, and I said what are the consequences, Mr Guagliano, and he said, well, I will have to pull all the men off the jobs. Later on he would be talking about different construction projects and he would interject that it is the

children that pay the consequences. Now, he said this several times, and I took it to mean that he was referring to my children.

Q: You had three children. How old were they at that time?

A: At that time I believe 12 and 13 and one that shortly would have been 16.

Q: Did you enter into the conversation at all with him?

A: Just at that one point.

Q: What did you say?

A: When I asked him what exactly were the consequences.

The visit to the Daly home was followed by several heated conversations between Daly and Guagliano. Daly described the following threat.

Transcript Vol. 55, pages 8156–7

MR DALY: We had several heated discussions, me and Mr Guagliano, and on three or four different projects we had going at that time. What do you mean by –

MR MCRAE: Did he say anything to you, any further threats or anything like that?

A: I don't know if you would call them threats. He threatened this is why – this is why people get beat up. If you want war we will give you war. And referring to me, this is why people wind up in the bay.

Mrs Daly tells of disturbing telephone calls.

Transcript Vol. 55, page 8190

MR MCRAE: Did anything happen after the meeting with Mr Guagliano and you?

MRS DALY: Yes, we received three phone calls – I received three phone calls that just said, you had better tell your husband to lay off. The first phone call I thought might have been a joke or something because it was such a dramatic way the man had of speaking, but then when two more followed and with all our problems with Local 18, I have always thought that is where they came from.

Charles Guagliano acknowledged his visit to the Daly home on 9 June 1971. He explained that it would be impossible to have a quiet talk with Daly because of his temperament. He admitted warning Daly that he could not work with a general contractor who was under agreement with Local 18 unless he too signed with them.

Transcript Vol. 60, page 8870

MR MCRAE: You were interested in convincing Mr Daly that either he should stay away from your contractors or sign an agreement with you. Is that not what you were interested in?

MR GUAGLIANO: Yes, you are right in just about 100 per cent. We had told him that if he is desirous of doing our work with our contractors he then must sign our agreement or either leave our contractors alone, go his own merry way, and we would go our merry way.

Daly has now signed with Local 18. Guagliano denied making any threats and strove to convey the impression that he was far from anxious to negotiate an agreement with Daly. The fact remains that he did go to Daly's home, that there were frequent heated arguments, and eventually there did materialize a signed agreement. My attention was drawn to an application made by Daly to the Ontario Labour Relations Board dated 23 July 1971, exhibit 1049. It adds nothing to the evidence of threats either way.

Mrs Daly stated that the only pressure came from Guagliano.

Transcript Vol. 55, page 8194

MR SIMPSON: Am I safe in assuming that there was considerable pressure on both you and your husband because of that?

A: Our only pressure, sir, came from Mr Guagliano.

This is contrary to the suggestion that there was pressure by the Lathers Union with whom Daly already had a collective agreement. Mrs Daly endeavoured to make a tape recording of the conversation which took place at her house. The tape is incoherent because the recorder was placed behind the refrigerator and the refrigerator noise drowned out the conversation. Exhibit 1052, which appears as appendix 39, indicates that the tape contains nothing of coherence. It is of some significance, however, that the Dalys felt so threatened that Mrs Daly was prompted to record the conversation.

Burglary of Carpenters Union, Local 18, Hamilton, 22 July 1970

A burglary occurred on 22 July 1970. The premises of the Carpenters Union, Local 18, at 82 Ferguson Avenue, North, Hamilton, were broken into and a safe removed. Sergeant Lorimer of the Hamilton Police Force investigated this robbery. Exhibit 1029 is his report. The safe was recovered the following morning in a secluded area. The door had been removed. The contents, consisting of about \$14,000 in non-negotiable

cheques and about \$2500 in dues cheques of small amounts were all recovered. According to information given to Lorimer at the time of the investigation, \$1950 in cash was missing from the safe.

The report indicates that the information was supplied by Charles Guagliano, but he stated at the hearing that he told the investigating officer that he did not know what was in the safe.

The circumstances of the cash are very mysterious and confusing. Exhibit 1014 is a reconciliation statement prepared by Hazel Nash, the office clerk, after the break-in. It was not an inventory of missing items. Exhibit 1015 is a list of the cheques involved. According to Mrs Nash, there was money in the safe, but she did not know the amount.

Transcript Vol. 54, page 7858

MR SIMPSON: Had anybody from the insurance company contacted you?

MRS NASH: Not me.

Q: All right. Had you heard of them contacting anybody from the union?

A: No, I hadn't.

Q: But you think you made it up just in case somebody did?

A: I made it up to sort of try and give Charlie or whoever was interested in it an idea of just what was in there because he never knew what was in there.

Guagliano stated that the burglary seemed peculiar to him. He said that on the day before the break-in, he had spoken to Mrs Nash and told her that he would do the banking the following day when actually, unknown to her, he did in fact make a deposit on that day. After the break-in, he suggested to her that she was somehow implicated.

Transcript Vol. 60, page 8843

MR GUAGLIANO: Now, as I said, after a few days when I could think about it I told her that in my mind there would only be two people that would have robbed this place and that is yourself or myself and I said if the place was robbed by a professional robber I think he would have known the union's activities and there was not much cash or that much money around at that time of the month. So with this she stated to me, she says, are you accusing me? I said, I am telling you my thoughts. I said, if I had facts I would charge you, and that was the discussion.

According to Guagliano, only \$350 in cash was missing. He denied having reported a loss of \$1950 in cash.

I am not able to calculate the actual loss suffered in the burglary. There

were no records that would indicate the amount of cash that should have been on hand in the safe at the time of the break-in. The evidence does not go far enough to indicate who committed the offence.

The two events which took place in Hamilton are not related to the other incidents of violence which were described earlier in the report.

I investigated and inquired into the acts of violence reported in this chapter and in each case have indicated inferences that may be drawn. It is the responsibility of the law enforcement agencies to determine what further proceedings should be taken, from the nature of the activities and conduct described as well as the evidence available in each instance.

3

Payments

The illegal activities covered in this chapter are limited to incidents of improper payments of money and other benefits. These activities fall into several categories. There are instances of payments made by employers to the business agents of the unions which represent their employees. The unions had been certified by the Ontario Labour Relations Board as the sole bargaining agents for the employees of the employers concerned. The good will of the business agents who conducted the affairs of the unions was treated by both the employers and the business agents as a commodity to be bought and sold. The attitude of the employers is summed up in the following evidence of Marco Muzzo, one of the larger drywall contractors.

Transcript Vol. 7, page 583

MR HUMPHREY: So you were not opposed to the general practice of bribery; you were only concerned about whether it worked or not?

MR MUZZO: That is right.

It goes without saying that this attitude is quite cynical and improper and, in some circumstances, illegal. It should be clearly understood that those who give are at least as blameworthy as those who take.

Of equal concern were the payments by subcontractors to the agents of the general contractors. In these instances, the goodwill of the agents, who were in charge of their principals' affairs, was the commodity paid for in cash or otherwise rewarded.

I was particularly alarmed to find that gifts and rewards had been made

to employees of a government agency by companies and individuals who were doing business with that agency. My views were well expressed by A.E. Shepherd, commission counsel, in the following remarks:

Transcript Vol. 39, pages 5620–31

MR SHEPHERD: Mr Commissioner, you would wish me to state to you and through you to the persons particularly concerned, the policy which, subject always to your direction, might be deemed appropriate for the Commission to follow respecting certain information which has come to our attention during the course of our investigation. The terms of reference include unlawful acts in relation to concrete forming and drywall sectors of the building industry and also sectors allied thereto.

A certain complex of related companies under one management engaged in building housing, among many other diverse activities, includes a large concrete forming company and a minority interest in a large drywall company, and the evidence has shown that the forming and drywall companies did a large volume of work in those trades, but no work other than work for that complex of which they formed a part.

It was therefore considered appropriate and necessary to see by investigation whether there was any evidence of acts of questionable legality within that complex resulting in work in the concrete forming and drywall trades, which, presumably, would not have been done by those companies if the questionable acts had not been done.

We learned that much of the concrete forming of drywall work of those companies had been performed on buildings built for or sold or mortgaged to Ontario Housing Corporation and its subsidiary, and OHC is, of course, a crown corporation.

The value of the work so performed is measured in millions in the period from 1969 onwards.

We learned as well that most of the support of Ontario Housing Corporation as a result of which a building is built – sometimes a series of buildings costing \$25 million or more – is obtained by the building company making a proposal to the corporation, the merits of which are passed upon by the full-time permanent employees of Ontario Housing Corporation.

As a practical matter the decision of those employees as to whether or not the proposal should be supported is decisive of the question.

COMMISSIONER: Well, do they have the final decision or do they just –

MR SHEPHERD: They make the recommendation, Mr Commissioner, and select which of the proposals seems to them best of several which might have been made, or, in the case of an individual proposal coming to them, they

make the recommendation as to whether it ought to be accepted and financed at the level sought, and the results of the studies by those committees are collated and sent up to a Board of Directors made up of part-time members of the public –

COMMISSIONER: Who serve on that Board?

MR SHEPHERD: Yes, whose approval is required. The contribution of the public servants on the committees below is, as I say, in practice of decisive importance, and an elaborate system of consideration of proposals by various committees is followed. And while one man might have a stronger view than another on such a committee, many of these employees must give their approval before the proposal is formally adopted by the Board.

The employees of Ontario Housing Corporation are public servants in that they are employed by a Crown Corporation, and the same standard of absolute integrity is demanded of them as is demanded of civil servants in the employ of a government department. And those dealing with the Corporation are required by law to make no gifts and confer no benefits upon these employees in respect of such dealings.

It is against this background that we learned that the complex of companies to which I referred has made gifts or given benefits to 10 or more of the public servants whose duty it was to assess the proposals made by those varied companies to Ontario Housing Corporation.

And the factor which particularly attracted our attention was that most, but not all, of the employees with any significant voice on these committees received a gift. The gift and benefits made in the years 1969 to 1971 were usually, although not always, at Christmas time.

Before Christmas of 1972 the managing director of the Corporation informed its employees by letter of their obligation not to receive gifts, and during Christmas season 1972 the gifts given were of lesser value, and were fewer, significantly fewer in number.

Now the gifts which were given at Christmas to the men to whom I have referred varied from gifts of a value of \$100 or less, porcelain and crystal and the like, including a silver tea service valued at \$250, and ranging up to a \$500 gift certificate and a colour television set to one man; a colour television set and a stereophonic record player to another – not at Christmas – and in this year a holiday, a week's holiday in the Bahamas with air fare, to yet another as disclosed by the investigation so far.

Some of those who received these gifts are no longer with the Corporation, having resigned for quite unrelated reasons, but all were there when the gifts were made. And even an officer of municipal authority with which the donor had some dealings received a \$200 gift certificate.

Now, Mr Commissioner, in the course of looking into these gifts we found evidence of other gifts made to certain of these employees of OHC by companies which, as we subsequently determined, do not fall within the terms of reference. Once we have satisfied ourselves that they were outside our competence we could take the matter no further.

To give an example we found evidence of a gift of \$2000 in gift certificates made at one time by one who is a principal in a company dealing with OHC to one of the employees of that Corporation whose duties required him to share in the process of making decisions affecting the fate of applications by developers, including a company with which that donor is associated.

Other little gifts but still significant were discovered. I refer to a case of liquor, hundred-dollar-bill certificates, and the like. I make no reference at all to gifts of petty value, such as food baskets, of which there was a great number.

While our rights respecting methods found to be outside the terms of reference are of course no higher than those of any citizen, our duty is no less, and accordingly we informed the law officers of the Crown in the Department of the Attorney General of the facts relating to these matters outside the terms of reference. We have thereafter received, in the fullest measure, the co-operation of Mr Callaghan, the deputy attorney general and his colleague, Mr Powell, senior crown counsel.

In these circumstances, Mr Commissioner, the question arises as to what course it is best to follow in the public interest.

The commission has heard much evidence during recent months about questionable payments, some of which in due course may perhaps be found by you, or some other Tribunal, to have been corrupt.

These payments were in the private sector of our society. Bad as this is in the private sector, when there appears the slightest suggestion that any practice of that nature might be being followed in relation to a Crown corporation, then I know sir that it will be your view that a halt must be called while there is time.

The place to stop it is here; the time to stop it, you will certainly say sir, is now and the way to stop it, I suggest, is to call the police.

Accordingly, after consultation with the law officers, and subject always to your direction, it would be my suggestion that we do nothing at the moment to interfere with the vigorous police investigation which I am informed has begun. Indeed, I am told that a large number of police officers are out this morning at a number of companies, executing search warrants to obtain records which will assist them in their inquiry.

The police will no doubt need a few weeks to carry out their investigation

and it may be that the proper course for this Commission to follow will depend, then, upon the result of that police investigation, and the matter can be reassessed when that investigation is complete.

One might ask why, having taken this course, do we say anything about it at all and the reasons are that practices of this nature flourish in the dark and, when the light is turned on them, they cease.

And you, sir, would say in the strongest terms that it is highly desirable that it be brought forcefully home to all that no gifts are to be given to public servants in circumstances such as these, and that if such a case should come to light at any time, the least the donor could expect is to have the police at his door.

Mr Commissioner, the servants of the Crown Corporation, I have said, are subject to the same rules as civil servants and I should take this occasion to say that the Civil Service of Ontario has been distinguished for over a hundred years for its probity and integrity. Lapses by individuals have been isolated and rare and that remains true today, and it will no doubt remain true in the future, provided that there is vigilance and no erosion of that principle, however slight, is tolerated; nor will it be, as I am confident.

So far as we have learned, Mr Commissioner, to date, no one of these public servants asked for a gift. They were proffered to them, even perhaps pressed on them in a few cases by the donors.

The dangers inherent in such a practice are manifest and the integrity of the civil service and public servants such as those is, I suppose, one of the foundation stones of our society, and the smallest indication of any action which might even conceivably be thought to represent any attempt to tamper with any one of them is, of course, a grave matter requiring prompt police action.

I should add, most of the public servants involved have been candid and co-operative with our investigators and I am confident that this will be taken fully into account in due course.

This then, sir, subject always to your direction, is the course which we have thought it best to follow, in that it seems most apt to advance the public interest.

Finally, there are no doubt hundreds of faithful men and women in the Ontario Housing Corporation discharging their duties daily in the furtherance of a most useful work, without any thought of gift or reward other than their salaries, and they are in no way affected by these developers. Indeed sir, the police investigation can only help and ultimately reflect credit upon them.

I thought it proper, sir, to lay this matter before you in public.

COMMISSIONER: Well, it seems to me Mr Shepherd that the problem which

you have drawn to my attention is really as to whether we should be thinking in terms of enlarging our terms of reference, or allowing the police action (which you tell me has already commenced) – the police investigation, I should say – to continue without being impeded in any way by our own investigations.

MR SHEPHERD: That is correct, sir.

COMMISSIONER: And what is your suggestion, your recommendation?

MR SHEPHERD: I think the proper course, Mr Commissioner at this point in time is to allow the police to deal promptly and vigorously with the matter, which is of course very much within their field, and then in the light of the result of that police investigation for you, sir, to re-assess the position which it would be appropriate to adopt.

COMMISSIONER: Do I understand that in the police investigation they are looking at sectors and areas both within and without our terms of reference?

MR SHEPHERD: That is correct, sir. They are looking at any information which suggests that there might conceivably exist a set of facts which *prima facie* would be of interest to the police and law officers of the Crown.

COMMISSIONER: Well, you don't consider that if we simply wait for a few days, or perhaps a week, or so – do you have any concept of what time would be involved in this?

MR SHEPHERD: I should think it would be a matter of a few weeks, Mr Commissioner. It is a large problem, but I don't know. As soon as the police have something to report then, you, sir, will no doubt consider what is appropriate to do.

COMMISSIONER: Well, then, there is no thought in your mind that – well, I suppose it is pretty hard to pre-judge this?

MR SHEPHERD: Yes.

COMMISSIONER: I was going to say, if the charges are made, we may not be able to proceed with some parts because it may be prejudicial to those who are being charged.

MR SHEPHERD: Yes, that is possible, sir.

COMMISSIONER: It is possible.

MR SHEPHERD: As I say, it is my respectful suggestion that the proper course be to let the police deal with it vigorously, for us to see as quickly as possible the result of that investigation, and for us to take what steps that seem appropriate under the circumstances.

COMMISSIONER: Well, I agree with you that it would seem to me to be in the public interest to have the entire question investigated by the police rather than to deal with only a portion of it by this Commission, or have it delayed by an application at this time to have the terms enlarged.

MR SHEPHERD: It would seem so, sir.

COMMISSIONER: So, I would think that probably the most efficient and vigorous way of dealing with it at this time would be to have the police investigation continued without any interference or independent investigation on our part?

MR SHEPHERD: Yes.

Rewards or benefits to employees of government agencies should be examined in the light of the provisions of Section 110 of the Criminal Code, which appears as appendix 40.

And, finally, one of the more sinister aspects of illegal activities to be reviewed in chapter 4 is the evidence of payments to hired hands for the execution of illegal activities, including acts of violence.

The results achieved in this area of the inquiry follow primarily from the thorough investigation. Hundreds of search warrants enabled the commission investigators and accountants to examine, in detail, the books and records of many companies, unions, and other associations. Significant information was obtained in this manner by our accountants who spent thousands of hours in careful perusal of the books and records. Suspicious looking transactions were questioned. The commission investigators pursued the information which, in some cases, led to the revelation of corrupt rewards, advantages, or benefits. The practice, then, was to confront the donors and donees with the documentary evidence. In some instances, this confrontation resulted in an acknowledgment of the details of the transactions, thus; the open hearings were marked by what would seem rather candid admissions of wrong-doing. Agostino Simone is one example of a person who was unwilling to pursue a line of memory lapses and denials at the hearings. Appreciating the extent of the information already at hand, he co-operated by explaining many transactions and incidents. As an early witness in this inquiry, his testimony did much to set the pattern for other witnesses. To that extent, the Commission is grateful for his co-operation. I feel, however, that there was much more that he could have revealed had he been so inclined. It is understandable, however, that it might be rather difficult for one to accurately recall incidents which involve one's friends, associates, or self, in illegal activities. The level of business ethics and morality encountered in the sectors of the construction industry under investigation were, generally speaking, very low. In that milieu one could hardly expect full disclosure. In that respect, we were not disappointed.

UNION SIDE

It is convenient to report separately on the payments which involve unions

and those which do not. Both are equally serious, but different in nature.

There is evidence that the following union agents received payments from employers under circumstances that involved the interests of their employees who, at the time, were the principals of the union agents involved: Agostino Simone, Chester DeToni, Danny DeMonte, Emil Lubinski, John D'Alimonte, Charles Guagliano, Bruno Zanini, and Charles Irvine. These payments were certainly improper and in some cases may have been illegal.

Agostino Simone

I found Agostino Simone to be an unusual character. On the one hand he truly reflected the members of his union, Lathers Local 562. On the other hand, however, he did not seem disturbed by the fact that he had personally profited from his position. He admitted receiving a number of substantial payments from contractors who, at the time, had collective agreements with his union. In his evidence he told of a proposed interest in Romanelli's business; he described meetings of the lathing and drywall contractors where money was collected for him. He told of contributions to the building of his home, and of freezers that were given to him and Frank Fior by a contractor.

Romanelli offered Simone a 20 per cent interest in one of his companies. Fior had been a business agent in Local 562 and resigned that position to become a partner of Romanelli's. It was deemed expedient to have Simone involved as well. Accordingly, Simone was offered an interest.

Transcript Vol. 5, pages 175-8

MR SHEPHERD: Did Mr Romanelli ever offer you any interest in his business?

MR SIMONE: I believe he did.

Q: What was the name of his company back in '68? Was it C. Romanelli Lathing Limited?

A: Right.

Q: And what did Mr Romanelli offer to you?

A: I believe he offered me, if I want, 20 per cent of his company.

Q: Was Mr Frank Fior a business agent of Local 562 at that time?

A: Yes.

Q: And Mr Romanelli asked you if you would like to have 20 per cent of the shares of C. Romanelli Lathing, is that correct?

A: Yes.

Q: Did he make the same offer to anybody else?

A: After he got Frank. Frank wanted to work for him.

Q: All right. Let's start back. Frank Fior was a business agent and did he leave

Local 562 and go and work for Romanelli?

A: Right.

Q: How did that come to pass?

A: He came up to me and said Romanelli had given him an offer and he felt that it was a good opportunity for him and he come to me to see if I would mind if he would leave. He said: 'If you don't want me to,' he says, 'I won't leave.' I told him it would be his own decision to make and he made the decision to go.

Q: And was he to have a percentage of the shares of C. Romanelli Lathing when he went over to work for him?

A: Yes, because he said that he had a good offer, that he would have a percentage interest in the company.

Q: And what was the percentage?

A: It could have been 30 per cent, 20 per cent. I don't know.

Q: Then you said Mr Romanelli offered an interest to you. How did this come to pass? What did he say?

A: He says: 'Well, I give Frank a percentage. I will give you 20 percent,' – which I never took.

Q: And he offered you 20 per cent. Then what did you say? What, initially, did you say?

A: I think around '68 –

Q: He offered you a 20 per cent interest and the first time he offered it to you – I am talking now of the first time – did you refuse it?

A: I didn't accept and I didn't refuse it.

Q: What was the next thing that happened?

A: He said he'd give me 20 per cent.

Q: Where did you go. Did you say I went down to some home on St Clair and then did you say it was DelZotto home, and then when asked what lawyer you saw did you say, 'I believe it was Elvio.'?

A: Yes.

Apparently he was sent to the law offices of Elvio DelZotto to arrange the legal technicalities. Present at that time were Elvio DelZotto, C. Romanelli, Frank Fior, and Simone. DelZotto enquired about Simone's union and then Romanelli gave instructions about setting up a company. What then took place can best be explained by quoting from the evidence.

Transcript Vol. 5, page 180

MR SHEPHERD: Well what happened then? What was the whole of the conversation?

MR SIMONE: I think the lawyer said tell me what you want, and I told him. He said he was going to set up a company to hold the shares.

It was intended to use corporate identities to hold the shares in the Romanelli Company. Romanelli and Fior explained this as a method of putting assets in the names of other members of their families. It had the effect of hiding the identity of the true owners. It appeared that when Simone was required to sign some papers he lost interest.

Transcript Vol. 5, pages 182–3

MR SHEPHERD: What was the next thing that happened about that interest?

MR SIMONE: I believe he came up to me and said –

Q: This is Mr Romanelli?

A: Yes. Mr Romanelli came up to me and said you have got to go and sign some paper or something – something to that effect – and I told him that I wasn't interested any more, forget about it.

The transaction to this point is summed up in the following question and answer.

Transcript Vol. 5, page 183

MR SHEPHERD: Now when he first proposed this, Mr Simone, you said that you did not accept neither did you refuse. Then you attended the meeting at which there was a discussion apparently as to how this was done. Then you left that meeting without making any further comments. Now on the third occasion when Mr Romanelli said something to the effect that there are papers, you say, 'No, I don't want it.' Is that correct?

MR SIMONE: Yes.

Romanelli confirmed that in 1968 he had taken Fior as a partner.

Transcript Vol. 14, page 1770

MR SHEPHERD: All right. How did Mr Fior acquire any interest in the lathing business at that time?

MR ROMANELLI: Well, that is time he was into the union.

Q: Mr Fior was a business agent?

A: Business agent.

Q: Of Local 562?

A: Correct.

Q: Yes.

A: And he was talking with me and Gus all the time, you know, we was going out for supper. They come on the jobs and things like that, and the way the papers supposed to be drawn, I not understand how to draw paper. I offer

20 per cent to him. That is the time I offer to give Simone too and Mr DelZotto too, the three.

At that time he saw fit to effect this partnership through C. Romanelli Apartment Account because his company, C. Romanelli Lathing Limited, had outstanding jobs in which the partners were not expected to participate. Romanelli explained what happened. A chart of the Romanelli companies appears in the opening chapter.

Transcript Vol. 14, pages 1771 – 2

MR ROMANELLI: And I went to the bank and we had to make paper for creating other companies, Udine and Sardina, things like that – Kiev I think it was – and at that time I went to the bank and I opened account under C. Romanelli Lathing Apartment Account. So the time came that the company, time they did company and everything went about by a year, and there was no – no transfer of shares or nothing. In the time Durable come along.

The names Udine, Sardina, and Kiev refer to companies that had been incorporated by DelZotto under those names. The nature of the transaction is further explained as follows:

Transcript Vol. 14, pages 1777 – 8

MR SHEPHERD: So it was just a matter of how you would split the profit; is that right?

MR ROMANELLI: Correct.

Q: And, you in fact split the profit so that Frank Fior (and I'll come in a moment to Udine Investments Limited) so that Frank Fior got a 20 per cent interest in the profit?

A: Yes, got 20 per cent.

Q: Now, did you offer a 20 per cent interest to anybody else?

A: Yes, I said to Mr Gus Simone.

Q: Yes. And did you offer a 20 per cent interest to any third person, to anybody else?

A: To Mr DelZotto.

Q: Yes. Where did you offer the 20 per cent interest to Simone?

A: I don't remember, because we was every day together.

Q: You were close friends, were you not?

A: Close friends, yes.

Q: And I take it that some time in 1968 then you said to Simone 'I'll give you a 20 per cent interest in the company'?

A: No, this was before that time.

Q: Well when before that time?

A: We start talk about the shares, me and Mr Gus Simone, was around 1963 or – no, 1965 – 66. I don't recall exactly.

Transcript Vol. 14, pages 1779 – 80

MR SHEPHERD: Are you saying that you knew – or you believed, anyway – that Simone, being a business agent, was getting money from contractors; is that correct?

MR ROMANELLI: Yes.

Q: And you did not have money to give him so you offered him a 20 per cent interest in your company; is that right?

A: Correct.

Q: And what did he say?

A: He kept saying to me, 'We'll see,' you know, 'We'll talk about, don't worry, keep calm,' things like that.

Q: So it was just talked about at first?

A: It was just talked about, yes.

Q: Then did he at any time say to you that he would take a 20 per cent interest in the company?

A: Yes, this was the time when Frank –

Q: When Frank Fior came?

A: Correct.

Q: Now we are talking about 1968.

A: 1968.

Q: And what did you do when Simone indicated that he would accept the 20 per cent interest that you were offering him?

A: I remember he went to the lawyer's office, to Elvio DelZotto –

Q: Yes?

A: – and at that time Mr Elvio DelZotto told me that it no was good idea, but really I knew that when I was going to Mr Simone with paper to sign he wouldn't sign because every time I was talking to him he said to me that he was want the shares under the table –

The law office of Elvio DelZotto provided a number of corporate entities from a stockpile of incorporated companies. Thus, he was able to provide Udine Investments Limited, which provided Fior with a 20 per cent interest, Kiev Construction Limited, which provided the DelZottos with a 20 per cent interest, C. Romanelli Lathing Limited retained a 40 per cent interest, and Sardina Investments Limited was provided to hold a 20 per

cent interest for Simone. The following is an explanation of what took place.

Transcript Vol. 14, pages 1787 – 8

MR SHEPHERD: I don't want to use fancy words, but I can't think of another word, and if you don't know what the word means, tell me. Did you offer him the shares in the belief that he would not take the shares because it would be corrupt for him –

MR ROMANELLI: Correct.

Q: For him to do so.

A: Correct.

Q: Then you went to Mr DelZotto's office and Mr DelZotto, after some discussion, about the incorporation of a company for Mr Fior and the incorporation of Sardina Investments Limited for Mr Simone, and after discussion of those things Mr DelZotto told you that it would be wrong for Mr Simone to hold an interest; is that correct?

A: Right.

Q: Were Mr Simone and Mr Fior present when Mr DelZotto told you that or did he tell you that privately?

A: He told me that privately.

Q: On the same day?

A: I don't recall if it was same day.

Q: Then when you left this meeting that day in the DelZotto office, what did you understand was going to be done?

A: What was going to be done, form three companies and each one own 20 per cent of shares.

Thus, Romanelli's explanation is that he offered the 20 per cent to Simone knowing that Simone would not accept it. This explanation is patently wrong. If in fact the 20 per cent was offered in lieu of cash payments to compete with other contractors and was not accepted as expected, then it could not serve that desired purpose. There is no doubt that it was the intention of the parties that Simone was to receive a 20 per cent interest in the company. All of the documentation was prepared for that purpose. This conclusion is further supported by the following evidence.

Transcript Vol. 14, pages 1799 – 1801

MR SHEPHERD: But when you offered him the interest originally you didn't say to him then that 'you will have to leave the union.' There was no discussion about the union?

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MR ROMANELLI: Well he never told me, Mr Shepherd, that it was against the law to pay him either.

COMMISSIONER: In fact if he had have left the union he wouldn't have been of any use to you, would he?

WITNESS: I don't need the union because Mr Frank Fior was a business agent and he come so he knew the men anyway. Mr Simone knows nothing.

Elvio DelZotto, a partner in the DelZotto Enterprises, is a lawyer by profession. His account of the meeting was given at the open hearings. It may be significant that his advice was not so much against giving an interest, but against giving an interest in C. Romanelli Limited.

Transcript Vol. 18, pages 2504-6

MR DELZOTTO: They came in, there was a meeting, Romanelli said he wanted to give 20 per cent of C. Romanelli Lathing to Frank Fior, 20 to Gus Simone and there was some discussion about our interests, which I wasn't fully familiar with at that time. I recommended that rather than give him a piece of C. Romanelli Lathing - there was a dual reason for not doing it. I wanted Romanelli to continue having his own company. Actually, there were three reasons. The other is that he had already been doing jobs that were not included in this new arrangement, and in fact the new arrangement was only to have been for work that started after Frank Fior joined him, which, I think, was roughly May 1st, 1968. Thirdly, there was a tax advantage to having separate corporations, so I suggested if they are going to proceed with anything, to do it by individual corporations. The meeting did not draw to a conclusion with any final instructions to me. My instructions came subsequently.

It was also clear that the DelZottos were to have an interest in this company.

Transcript Vol. 18, page 2508

MR SHEPHERD: Was it understood you were to have some interest -

MR DELZOTTO: Yes, no question about that.

Q: - in this, whatever it was going to do?

A: It was understood by Romanelli that we were to have some interest.

Q: Yes. And this had been discussed with your brother Leo?

A: Yes.

Q: And it was now discussed with you?

A: Yes.

The document which Simone and Romanelli speak of signing was apparently the stock certificate which had been issued in the name of Simone.

Transcript Vol. 18, page 2512

MR SHEPHERD: The document which you prepared and you have spoken of indicating what the interests were is this document which Mr Romanelli presumably was talking about, it was a document required to be signed by Mr Simone?

MR DELZOTTO: You know I can't recall. I don't think the document had to be signed by Simone. My recollection was that Sardina had a document with C. Romanelli Lathing, and that is all that would have been necessary for Simone for him to have come in with the stock and say 'Put me on the company. It is my company,' and, 'you know it is going back five years.'

An unusual aspect of this transaction is the fact that Elvio DelZotto takes the position that he advised Romanelli alone that the proposed transfer of an interest in his company to Simone was not proper. I find it strange that this aspect of the transaction would not be discussed in the presence of all parties. It leaves me somewhat puzzled as to who was expected to look after the interest of Mr Simone.

This aspect of the transaction comes through quite clearly in the following evidence.

Transcript Vol. 19, pages 2517-19

MR SHEPHERD: Would you tell me again what you told Mr Romanelli?

MR DELZOTTO: Yes. It wasn't at the meeting. It was after the meeting. I don't recall whether it was the same day or a day or so later. I pointed out to him that I didn't think he should get involved with a fellow that was involved in a union and all that I recall was not to worry about it because there would be no problems and that was dropped at that point.

Q: Why did you not tell Simone for who you appear to have been acting that it was improper for him to enter into this arrangement?

A: I didn't consider that I was acting for Simone. The incorporations were for Romanelli. He was my client and I had met Simone - this was the first time I had met Simone in any kind of formal way because I think I had seen him before that on a few times for lunch but I didn't know the man at all and I didn't consider him my client.

Q: A company had to be incorporated or, if it had already been incorporated, organized for his benefit; he would need assistance on that I should have thought. Did you think anybody else was acting for him or do you think he himself was looking after his interest?

A: You have got to remember at that stage with the meeting in my office there was no conclusion drawn. I voiced my opinion as to how I thought it should have been set up and the subsequent instruction to me to incorporate came from Romanelli and the instructions were to incorporate he, his wife, and I as the three shareholders and the only reason for that being that they needed three shareholders in those days. You couldn't do one-director companies and my instructions were purely from him. I knew that he intended that the company to be for Simone. At that time Simone had come in and complained to me and I could very well have told him that I considered it improper. I was also left with the impression that Simone would be leaving the union. That was another impression that I was left with at that time.

Q: Apart from whether or not you ought to have told Simone, did you consider the transaction so improper that the DelZottos themselves in the form of Kiev Construction Limited ought not to take part and that there was any thought of Simone being involved?

A: Yes, I did, and I said that to Romanelli.

Q: But then Kiev was formed, Udine was formed, Sardina was formed and apparently some document was presented to Simone for his signature; is that not correct? So Mr Romanelli has told us anyway.

A: I think he is incorrect in saying that. That document was presented for signature. If I recall correctly the document would have been signed by Sardina and what was presented to Simone was stock certificates that I could have brought in and asked for a company to be transferred to him.

Q: I see and these stock certificates presumably would be in the name of Romanelli, say, and endorsed?

A: That's right.

Q: So that Simone could if he later wished to do so as you say cause them to be registered in his own name?

A: That's right.

Q: Well then the only reason why Simone did not in fact become a partner in this enterprise while a union leader was that he refused it for whatever motive; that's correct, is it not?

A: I don't know. I never was given the reason why Simone did or did not get involved or what the conversation was.

It is significant that all of the companies had been incorporated by the law offices of Elvio DelZotto. As it was the only law firm involved in the transaction, it is not unreasonable to assume that that office would be acting for all the parties. Finally, Sardina, which was to be the vehicle for Simone's interest, wound up in 1969 as another wholly owned subsidiary of the DelZotto Enterprises.

It was Fior's understanding when he joined the company that Simone would have an interest in it. It appeared to him to be cut and dried. At the meeting with Elvio DelZotto, Romanelli was only required to spell out what was to be done.

Transcript Vol. 18, page 2355

MR SHEPHERD: From whom did you learn it and what was said?

MR FIOR: At that meeting – this is when Mr Romanelli told Elvio DelZotto what he thinks should be done, Mr DelZotto told him, 'You tell me what you want done and I will do it.'

Q: And what did Mr Romanelli want done?

A: That is when he told Mr Elvio DelZotto that he was going to give me 20 per cent, and that he was offering Mr Simone 20 and that if they wanted there would be a little interest for them.

Q: When you say 'they' you mean Mr DelZotto?

A: Correct.

In fact, it was understood that Simone's interest would be there when he needed it.

Transcript Vol. 18, pages 2359–60

MR SHEPHERD: You are not suggesting, I suppose, Mr Fior, that Mr Simone ever said to anyone that he would resign as business agent of that union to go and have 20 per cent interest in Romanelli Lathing? He wasn't saying that?

MR FIOR: Correct. That is exactly his thinking at that time. He was thinking that he wouldn't – his thinking at that time, the way I understood, he would sooner – one of these days he would get elected out, and that he would be looking for a job.

Q: I see.

A: He took advantage of this opportunity himself.

Q: I see.

A: And he agreed on this.

Q: You are saying he had in mind that perhaps since his holding the office of business agent depended on the voters –

A: Yes.

Q: On the union members?

A: Yes.

Q: Some day they might elect somebody else as business agent?

A: Correct.

Q: But as far as he could be business agent he was going to stay there and be business agent?

A: That is about it.

There is ample evidence that there was a clear understanding between the parties that an arrangement was being worked out to provide Simone with a financial interest in C. Romanelli Lathing Limited in consideration for a steady supply of qualified workers from the union membership which he represented. It was vital to the success of that arrangement that Simone continue as business manager of the Lathers' Union Local 562.

In October 1968 The Metro Lathing Contracting Association threw a party at the Conroy Hotel to celebrate signing a collective agreement with Local 562. The members were obviously pleased with the terms of the agreement. Simone was the guest of honour. Those attending contributed money which, I am satisfied, was intended for Simone.

Romanelli confirmed that Alessandro was delegated to collect from the smaller contractors, while he would canvass the others.

Transcript Vol. 15, page 1976

MR ROMANELLI: Was about the same time when Mr Joe Gemini started to collect for Mr Simone around a thousand dollars. He was to call on the small guys because I was to call on the big guys.

Guiseppe Alessandro of Gemini Lathing assisted in the organizing of the party. Responding to a request from Simone, he called several members to urge them to attend and to make payment of \$1000 each. It is significant that the guest of honour took an active part in assisting to organize the party.

When asked who the money was for, Alessandro replied that he did not know. He then went on to explain that at the party there was a table and on the table there was an envelope and that everybody put money into the envelope. Alessandro paid \$1000 in cash. He also assisted by cashing the cheques of two other donors at the request of Simone. The following explanation about cashing the cheques indicated that there could be no doubt about the destination and purpose of the payments.

Transcript Vol. 6, page 467

MR SHEPHERD: Ah, but you told me that you didn't do that just a moment ago, you told me that you went into one bank and you cashed the cheque and took the \$2000 –

MR ALESSANDRO: No, we cashed one cheque and then we cashed the second cheque –

Q: Why –

A: I made a mistake. Because I was under pressure of the union, I had the trouble with them.

Mario Catenaro of Atlantic Lathing Limited identified exhibit 291 as a cheque dated 4 October 1968, made out to 'cash' in the sum of \$1000. He gave this cheque to Alessandro in the belief that \$10,000 to \$11,000 was collected at the party. This was one of the cheques cashed by Alessandro for Simone.

Then Mario Palma of Empire Lathing attended the party. He identified Exhibit 293 as being a cheque dated 4 October 1968 made out to 'cash' in the sum of \$1000, which he placed in an envelope and deposited on the table. Alessandro later cashed this cheque for Simone. Palma knew that the money was intended for Simone.

Transcript Vol. 6, page 436

MR SHEPHERD: Do you know who got the cheque?

MR PALMA: No, only knew which Gus Simone was supposed to get the money, but who got the cheque from there, I don't know.

So much for the celebration. In essence it was simply an unlawful scheme for payments by employers to a business agent of the union of their employees. One will never know whether the terms of the collective agreement negotiated between these employers and the union were as fair to the employees as they could have been, nor whether men were being assigned to work projects on an impartial basis, nor whether the collective agreements were being properly enforced. The fact that payments were made to the person responsible for the exercise of these judgments on behalf of the employees raises considerable doubt.

There was evidence of numerous other improper payments. For example, Domenic Valsi (of Suburban Plastering) admitted gifts to Simone on at least two other occasions, one in the sum of \$200 to \$300.

Antonio Riolino of Roselawn Plastering gave \$500 to Simone in June 1970 because he had problems with the lathers. The lathing trade is so tied to plastering that the lathers can easily make trouble for unpopular plastering contractors. The lathing can be delayed or improperly installed, which in turn impedes the plastering and increases the cost. Riolino considered that it was good business to pay.

Frank Fior had been a business agent with Local 562 before entering business as a partner of Romanelli, and while he was with the union he found that Simone showed greater support for a small group of contractors

including Fanelli, Acme, and Marel. He had standing instructions to send available men to these employers. He admitted that he and Simone had received freezers from Gemini in 1968, but stated that until quite recently he was of the impression that his had come from Romanelli. That explanation makes no sense whatever, considering the closeness between Fior and Simone. Simone was well aware that the freezers had come from Gemini. Exhibit 295, appendix 42 is the invoice which confirms the gift of freezers referred to in evidence.

Guiseppe Alessandro told of other payments to Simone as well, beginning in June 1968 with the gift of freezers in connection with the Broadview job site. He continued with other payments. The following payments were made on behalf of Gemini to Simone: \$300 on 6 May 1969; \$540 on 22 July 1969; \$1000 on 6 October 1969; \$1000 on 1 October 1971. Payments of unspecified amounts were made on 11 May 1972. In all, Alessandro calculated having paid Simone a total of about \$5000. His explanation was that having lost \$18,000 on the Broadview job he learned how to operate without further trouble.

Transcript Vol. 6, page 478

MR SHEPHERD: Do you feel he did anything for you as a result of these payments, and if so what was it?

MR ALESSANDRO: He didn't bother me on the job site. He didn't give me any problems.

Q: Did he threaten to give you labour problems?

A: No. The only problem I had was on the Broadview job. After that no problems.

Q: So from 1968 on you had no problems, but you made these payments because you had no problems?

A: Right.

Another payment to Simone was made by Northwest Plastering Limited. Exhibit 698 is a cheque dated 5 April 1971 in the sum of \$250. The proceeds of this cheque were paid in cash to Gus Simone by Vitorino Contatto of the above company in order to avoid labour trouble. Ross McKenzie, the manager of Northwest Plastering Limited, explained it in this way:

Transcript Vol. 28, page 3925

MR MCRAE: Why would Mr Contatto or Mr Scodellaro give \$250 to Mr Simone of the Latherers union?

MR MCKENZIE: Well according to my information, Mr Contatto gave Mr Simone \$250. We were doing a plastering job at the time and I understand there was rumours that the latherers were going to pull off the job and Mr Contatto gave it to Mr Simone as public relations.

Danilo Marcuz of Suburban Plastering volunteered to give evidence which correlates with the evidence given by Alessandro as to the payment of \$1000 to Simone on 1 October 1971. Alessandro, the lathing contractor, paid \$1000 and Marcuz, the plastering contractor, paid \$1000. Marcuz' description of the transaction made it clear that this was not an expenditure in the ordinary course of business.

Transcript Vol. 7, page 490

MR SHEPHERD: What did Alessandro then next say to you which relates to this evidence he gave?

MR MARCUZ: Well, he has asked me that he might anticipate trouble and rather than doing that, to hold up the job or anything, he said, 'We need some money.'

Q: Yes?

A: So I give him some money out of our own pocket.

On this subject Alessandro had testified as follows:

Transcript Vol. 6, pages 473-4

MR ALESSANDRO: Well then one day Mr Simone come into my office and he says, 'You got that job?' I says, 'Yes, I have that job.' He says, 'How come you got that job?' I says, 'Well, we put the job to a plasterer and we doing the job.'

MR SHEPHERD: Yes?

A: And he says, 'Well, we going to give you troubles.' And then I said, 'O.K. don't, we give you some cash, me and the plasterer.' And that's the way it went. So I gave him another thousand dollars.

Q: I perhaps misunderstood you, were you saying you were going to give something to the plasterer as well?

A: No, no, me and the plasterer we pay thousand dollars each.

The next payment is evidenced by a cheque in the sum of \$1000 (exhibit 297) dated 26 March 1969. Joseph Mittl, a partner in E & M Lathing Company stated that the proceeds of this cheque were used to give Simone \$450 and Leonard Ballantyne \$450. Simone does not remember the gift, but

Ballantyne does remember the incident as being a dispute as to whether the job was to be classified as commercial or residential, as a result of which E & M Lathing Company were able to save money on the project. Ballantyne explained it as follows:

Transcript Vol. 17, pages 2296–7

MR MCRAE: He was able to save money by using [Local] 562 men?

MR BALLANTYNE: Yes.

COMMISSIONER: Were you of assistance to him in that respect?

WITNESS: Assistance to him?

COMMISSIONER: Yes.

WITNESS: We gave him all the help we could as a residential local but he was a contractor under our agreement.

Q: Really what we are asking is was there a connection between you and Mr Simone?

A: I don't think so.

Q: And your helping him use 562 men on what was basically a commercial project.

A: I don't believe so, no.

Q: You admit it is a surprising coincidence?

A: That is what it would be.

COMMISSIONER: A coincidence, your helping him and your getting the money.

WITNESS: It is not a coincidence I am helping him because he was a contractor under our agreement and that is our job to help our contractors to employ our men to keep them working.

Next, Simone tells of a trip to Italy in July 1970 which was the occasion for further gifts by contractors. E & M Lathing gave about \$400; Roselawn Plastering about \$400; Antonio Riolino about \$500; Marco Muzzo about \$200. In each case the payments were made by or on behalf of contractors who employed members of Simone's union. In each case, the payments were made in cash. This was also true of the so-called Christmas gifts, although on one occasion in 1969 Simone shared a gift of \$500 with the workers when their employer defaulted in payment of their wages.

Other gifts from contractors with collective agreements included: Acme Lathing, a \$1000 Eaton gift certificate, and A & P Lathing, \$300 cash. Also giving gifts were: Atlantic Lathing, Ballantyne Plastering, LT Lathing, Puglia Lathing, Downsview Lathing, Empire Lathing, Fanelli Lathing, Gemini Lathing, Marel Contractors, Suburban Lathing, and Triangle Lathing.

An incident in which the workers were exploited came to light. It appears that in or about 1969 Gemini Lathing had a contract on a senior citizens' project in which it was required to pay the fair wage scale, which was above that scale provided for in the collective agreement with Local 562. The men acknowledged having been paid by signing documents to that effect, but actually were paid at the lower rate. Simone acknowledged receipt of a substantial payment to tolerate this disgraceful violation.

Transcript Vol. 5, pages 199–200

MR SHEPHERD: Do you recall an occasion when Gemini were bidding on a senior citizens place at Bronte Road and there was some discussion between Alessandro and yourself about that and there will be some evidence I believe that ultimately Mr Alessandro paid you a total of \$1000? This is in the autumn of 1971.

MR SIMONE: There could have been on senior citizens. We were after and I believe the fair wage officer went after because he was paying under the fair wage and finally we got the money to the men but the men later on told me that they got the money and gave it back to Alessandro. I said, 'Okay, then we will get this cleared up,' but Alessandro came out with the paper which the men had signed. They had received the money so they had signed it was received that, but they went to the bank and cashed it and probably gave it back to the company which the union – we can't do too much about when the men are signed they had received.

Romanelli seems to have been in a class by himself. Simone and Romanelli were on exceedingly friendly terms at this time. In 1968 Romanelli collected from other contractors the sum of \$2500 for Simone, out of which he kept for himself \$500.

Transcript Vol. 5, page 202

MR SHEPHERD: Did Romanelli ever collect money for you?

MR SIMONE: I believe he did once.

Q: How much did he collect?

A: It was either \$2000 or \$2500.

Q: Did he give it all to you?

A: No, he kept \$500.

Simone acknowledged that the contractors expected the allotment of better workers as a result of their payments. He stated, however, that he treated them all the same. He treated the payments as gifts and felt no sense of obligation.



Figure 16 (appendix 43 exhibit 290)
Agostino Simone's house

In 1972, Simone built his home in Albion Township. It appears to be a fine home in the country. Figure 16, exhibit 290, appendix 43 is a photograph of it. Some of the work was done by himself, his family and friends. He also received numerous gifts of labour and material from contractors who were in contractual relations with his union. Acme Lathing supplied windows at a cost of about \$600; they did the lathing at a cost of about \$3500; and they arranged to have the architectural services performed. It was at some later date, as a result of an article in the news media, that Acme did send an invoice which, at the date of the hearing, had not been paid. Marco Muzzo (Marel Construction) arranged for the supply of bricks and blocks at a discount. Alessandro (Gemini) did work in the kitchen at a cost of \$500. Lido Plastering arranged for plastering, but Simone said that he paid the men direct for their labour. Northdown paid \$4000 in cash in lieu of supplies as requested.

Simone puts the cost of the house at \$60,000 and the land at \$40,000 (one-third of the land is owned by a relative). Simone's salary as a business

manager of Local 562 was \$17,000 per year. He could not have built the house without the substantial assistance given to him, some of which was quite improper.

The summer of 1971 was the time of a series of unusual activities. Money in the amount of \$1000 per month was collected from a number of lathing and drywall contractors for a period of several months. This money, totalling about \$15,000, was allegedly collected by Romanelli and paid to Simone. Simone denies receiving the money.

Transcript Vol. 5, pages 228 – 9

MR SHEPHERD: Now Mr Simone, I want to ask you about the second set of payments of a different character. Evidence will be led to show that in the summer of 1971 sums of money were collected from a number of contractors, instalments of a thousand dollars a month over three or four months, from each contractor. And the aggregate of that was something in the order of \$12,000 \$15,000. And evidence will be led to show that the persons paying that money, or at least some of them if not all, will say that they paid the money to Mr Romanelli on the understanding that it was going to go to you. Did you receive any of that money?

MR SIMONE: No sir.

Romanelli told of a meeting held in June of 1971 at which six contractors were present as follows: Muzzo (Marel Construction); DeLuca (Fanelli); Cesaroni (Northdown); Gambin (Northdown); Kanner (Acme); Romanelli (Romanelli); as well as Simone (business manager, Local 562). The purpose of this meeting was to pay \$1000 a month to Simone to provide men for the industry. The men would be taken from the smaller contractors and allotted to the contributors. The details of this arrangement can best be described in Romanelli's own words.

Transcript Vol. 15, pages 1883–4

MR SHEPHERD: Where was he to go to get the men? What was he to do to get the men?

MR ROMANELLI: Well, try to get the men. I think, if I can recall correctly, he was to get the men from the small contractor and try to keep them in the group of the big contractors.

Q: I'm sorry, I don't think I quite understood you. He was to get the men from the small contractors, did you say?

A: Yes.

Q: And then what was he to do with them – the men?

A: Try to supply every one that was put up the thousand dollars apiece.

Q: I see. How was he to get the workers away from the small contractor and off to the big contractor?

COMMISSIONER: He didn't say the big contractors; he said to direct them to those who had contributed the thousand dollars.

MR SHEPHERD: Yes, sir; I thought he had said earlier something about big contractors.

COMMISSIONER: Well, that's as I understood it. Perhaps you can –

MR SHEPHERD: No, I may well be wrong, Mr Commissioner.

Q: Let's just go over it again to clear this up, Mr Romanelli. What was it again, please, that Mr Simone was to do about men?

A: Well, he is supposed – he tried to tell us he was going to take small guys from the small contractors and give to the guys that was paying the thousand dollars and he was going out of town to get the men; things like that. I don't recall exactly the conversation now.

Q: Then did anyone agree to put up \$1000 a month?

A: Yes.

Q: Right. Who agreed?

A: Mr Marko Muzzo and Mr DeLuca and Mr Kanner and Mr Toni Cesaroni, and Mr Bruno Gambin.

Q: Now, Mr Cesaroni and Mr Gambin, they were both with the same firm were they not – Northdown?

A: Yes.

According to Romanelli, the following payments were received by him and turned over to Simone: Muzzo (Marel) \$2000; DeLuca (Yorkland) \$1000, three times; Cesaroni (Northdown) made payments direct; Kanner (Acme) \$1000 three times; Romanelli (Durable) about \$7000 plus \$2500 later.

Transcript Vol. 15, page 1907

MR SHEPHERD: It is 2 July 1971. Let me ask you this. How soon after you received the cash from these different men did you give the cash you had received to Mr Simone?

MR ROMANELLI: Yes, because me and Mr Simone, we are the two of us every time together.

Q: So you would give it to him either the same day or the next day?

A: Yes. I used to go in his house and eating supper with him; we used to meet him lunch time; we were pretty well all the time together.

Q: Yes. Did you give any of the cash you received from any of these men to anybody other than to Mr Simone?

A: No sir.

Q: Did Mr Simone give you back any of the cash?

A: No, sir.

Each of the donors confirmed making the payments to Romanelli. Romanelli insisted that he turned them over to Simone. Simone, on the other hand, consistently denied receiving these payments. It would seem to me that Simone had nothing to gain from an untrue denial, having admitted the receipt of many payments. It is significant, also, that his denial of receipt was made to the donors before the Commission began to investigate. On the other hand, there was the evidence that Romanelli deposited in the Durable bank account proceeds of at least one such payment. Exhibit 394, appendix 44, is a cheque made by Acme dated 8 July 1971, in the sum of \$1000. The reverse side shows that it produced the following cash: $40 \times 20 = 800$, plus $2 \times 50 = 100$, plus $1 \times 100 = 100$, total = \$1000. Exhibit 463, appendix 45, is a deposit slip of Durable Drywall dated 14 July 1971 showing a deposit of \$1000 credited to Romanelli made up of the identical composition of currency. This could not be a coincidence. Romanelli insisted that it was in fact a coincidence.

Transcript Vol. 15, page 1915

MR SHEPHERD: Then you are saying that the deposit of the forty \$20 bills, the two \$50 bills, and the one \$100 bill is a coincidence and that this is not the money which you received from Mr Kanner?

MR ROMANELLI: No, sir. This can't even meet up to that book. I never did such a thing.

Again, Exhibit 396 is a cheque of Acme dated 9 September 1971 in the sum of \$1000, and exhibit 463 indicates a deposit by Durable Drywall on 10 September 1971 of $10 \times 100 = \$1000 - \1000 again credited to C. Romanelli. The inference is clear that again this is money which was collected from Kanner.

There was general agreement that the money was to be used to regulate the industry. This plan was concisely expressed by Kanner.

Transcript Vol. 10, page 1171

MR KANNER: What I understood, actually, that this money would go to Gus Simone.

MR SHEPHERD: I see. And then you understood that Simone – and I don't want to put words in your mouth if I am wrong about this, please tell me – you understood that Romanelli would collect the money, give it to Simone, in the

expectation that Simone would hire men to regulate the industry?

A: That's right, that's correct.

It is probable that Romanelli made arrangements without going through Simone and applied some of the money for that purpose; he may have retained some himself and turned some over to Simone. It would be naïve to expect an accurate accounting of large sums of cash being handed around under these circumstances.

Marco Muzzo testified that his company had agreed to pay \$1000 per month to Simone pursuant to which he made two payments. Exhibit 302 is a cheque dated 2 June 1971 in the sum of \$1000 and exhibit 303 is a cheque dated 2 July 1971 in the sum of \$1000. Then to test the validity of the arrangement, he offered \$500 directly to Simone for the third payment, with the following results.

Transcript Vol. 7, page 560

MR SHEPHERD: I take it then you thought that, perhaps where any payments of \$1000 had been made before on the understanding it was going to Simone, an offer of \$500 might elicit some response one way or the other from which you could judge what was going on?

MR MUZZO: Correct.

Q: Did you have \$500 in cash?

A: Yes.

Q: You offered it to him?

A: That's right.

Q: What did he say about that?

A: He says, 'I don't want any money.' He said 'I never took any money,' but he says, 'I don't want any money that way.' 'I never took any money that way. I don't want any money.'

Q: Did he say anything about Romanelli? I think you testified that you had said I am going to give this to you instead of giving it to Romanelli or through Romanelli to you or something of that nature.

A: Yes and he said, 'I never got any money from Romanelli,' and I says, 'You'd better tell the other boys.' That is what I told him.

Q: Did he take the \$500 at all?

A: No.

Simone denied receiving the money, at a meeting in September 1971, in the presence of DeLuca, Muzzo, Kanner, and Simone. The following conversation took place;

Transcript Vol. 7, pages 561-2

MR SHEPHERD: I suppose Simone would start first, would he?

MR MUZZO: That is right.

Q: What did he say?

A: Well, just if we had paid money to Mr Romanelli he didn't receive any. That was.

Q: What was the reaction to that?

A: I got very surprised. Mr DeLuca was a little upset. Mr Kanner laughed and he said, 'We should have known better,' and that was the end of it.

Q: When Simone told you twice that he didn't receive any of his money from Romanelli, I would be interested in your view. Did you tend to believe him or not?

A: I couldn't fully believe him because of the association that he had prior with Romanelli. I still had doubts in my mind.

Naftali Kanner of Acme, one of the larger contractors in the field, confirmed the following cash payments to Romanelli for which the cash was made available from the proceeds of the following company cheques: exhibit 393 dated 1 June 1971, \$1000; exhibit 394 dated 8 July 1971, \$1000; exhibit 395 dated 9 August 1971, \$1000; exhibit 396 dated 9 September 1971, \$1000.

Danny Tullio and his brother, Tony Tullio, had a business in Downsview. By 1972 they employed about 60 men. In 1971, at the request of Alessandro, they paid \$1000 to Simone.

Marco DeLuca's companies, Yorkland Drywall and Fanelli Lathing had a collective agreement with Local 562 and employed about 150 men. He admitted attending the meeting of the big five at the Conroy Hotel in May or June 1971 when the suggestion was made to give money to Simone to create peace in the industry. All present were in favour of this plan and Romanelli was to collect the \$5000 per month and pay it to Simone. DeLuca paid a total of \$3000. He was of the impression that the \$50,000 proposal made by Romanelli came up at the same meeting, but other witnesses felt that there were two occasions. The difference is not significant. DeLuca stated that there was talk about prices and organizing the field. Stanley Weiman, a part owner of Yorkland testified that their payments were made in cash from the proceeds of the following cheques. Exhibit 304 dated 2 June 1971, exhibit 305 dated 5 July 1971, and exhibit 306 dated 31 August 1971, each in the sum of \$1000.

Anthony Cesaroni of Northdown, was one of the largest contractors in the lathing, plastering, and drywall trades. Northdown resulted from a

merger of the Cesaroni Brothers, the Donaldson, and Gambin firms. They confined their work primarily to commercial projects. They had collective agreements with both Local 562 and Local 97. Exhibit 398, which appears as appendix 46 is a Northdown cheque dated the 12 March 1971 for \$5000 which Donaldson took in cash to pay Simone. This sum was paid for Simone to transfer all the work of the Four Seasons Sheraton Hotel and Hyatt House Hotel projects to the members of Local 562. This involved some doing as it meant taking the work from the members of Local 97. Members of Local 562 were paid at the lower residential rate. Simone made the necessary arrangements.

Transcript Vol. 24, page 3307

MRS SHEPHERD: Did you have their union men doing it or did you use independent contractors, board men, to do the job?

MR CESARONI: No, we had 562 to do the board and we had 97 to do the steel.

Q: What was Simone to do for the \$5000?

A: Well, again, as I said, he said that he could probably straighten the problem out and when he allowed us to put the 562 men on all our jobs and do the complete operation – which I think that's the way it should be done – was allowed to do and we didn't have any problem.

Cesaroni agreed that they were part of the Conroy Hotel arrangement and indicated that the payments were made from the proceeds of the following cheques, each in the sum of \$1000. Exhibit 401 dated 1 June 1971, exhibit 402 dated 2 July 1971, exhibit 403 dated 5 August 1971, and exhibit 404 dated 31 August 1971. He stated that \$3000 went to Romanelli and he did not recall the disposition of the other \$1000.

Exhibit 405, a cheque dated 11 November 1971 in the sum of \$3000, and exhibit 406, a cheque dated 16 August 1972 in the sum of \$4000, represent the source of two additional payments to 'cash' which Cesaroni said were given to Simone. Donaldson testified that he cashed the cheques to provide the cash which he understood was going to Simone. Bruno Gambin gave evidence that he was present on two occasions when Cesaroni gave money to Simone. Gambin explained the proceeds of exhibit 398, being the proceeds of a cheque for \$5000 as payment to Simone to assist in labour difficulties with Local 562: \$4000 cash from exhibit 406 was paid to Simone in response to a request by him for assistance in building his house. It was Gambin's understanding that the \$1000 per month payments made through Romanelli were for the purpose of ensuring an adequate supply of labour.

Cesidio Romanelli carried on the business of contracting in lathing and

drywall under several names, in partnership with the DelZotto interests and Fior. He stated that he was called to the June 1971 meeting at the Conroy Hotel by Simone, who did not remain throughout the meeting. The purpose of the meeting, according to Romanelli, was to provide men for the industry. He confirmed the payments made to him by Muzzo, DeLuca, Cesaroni, and Kanner, and said that he gave the money to Simone. On behalf of his own company, Durable Drywall, he made other payments to Simone: \$5000 at one time, \$1000 or \$2000 later, and \$2500 at a later date. Between 1 June and September of 1971, he made either one or two payments of \$1000 each.

It should be remembered that this Romanelli who pays large sums of money is the same Romanelli who was prepared to give Simone a 20 per cent interest in his company because, as he said, he had no money to pay him. I must say that I did not find Romanelli to be a credible witness.

In 1971 in anticipation of the construction of the Hyatt Hotel on Avenue Road, Northdown had done considerable preparation. They had mocked up an actual hotel room using a novel method of construction, and they fully expected to be awarded the contract for the drywall and plastering. Romanelli came into the picture through the intervention of Angelo DelZotto. Cesaroni became concerned. Cesaroni asked Simone in his capacity as business agent of Local 562 to deny Romanelli the right to undertake this contract. There is evidence to the effect that Cesaroni went so far as to offer Simone \$70,000 to get rid of Romanelli.

The evidence of Simone and others on this point was impressive;

Transcript Vol. 6, pages 322-6

MR SIMONE: He says – I think we discussed for about an hour which he was very upset. He says first he want me to tell Romanelli to get off the job. He can't do the job. Then he says well, he offered money if I would do it.

MR SHEPHERD: He offered you money?

A: If I would do it.

Q: If you would cause Romanelli to go away?

A: Right.

Q: What did he say?

A: Well, he says – he offered money. He says I will give you this. You tell Romanelli he can't do the job.

Q: How much was he going to give you?

A: I believe he said \$70,000.

Q: \$70,000?

A: Yes.

Q: What did you say to that?

A: I just walked away.

Q: What was the next thing which happened?

A: On the afternoon – that happened in the morning –

Q: Yes.

A: On the afternoon I had a phone call from Bill Johnston, business agent of Local 97.

Q: Yes.

A: To meet him over at his house.

Q: To meet Bill Johnston at his house?

A: Yes, over at Bill Johnston's house which I didn't know where it was but he gave me the directions to get there.

Q: Yes.

A: So I got there and through this discussion Bill Johnston says how the job is going to be done, commercial and residential, which –

Q: Let me pause there. He was speaking of how it was to be done.

A: Which men would be employed, Local 562 members or Local 97 members.

Q: That is if it was to be regarded as a commercial job he would claim his men of Local 97 should do it. Is that right?

A: Correct.

Q: And you would claim that your men of Local 562 were entitled to do it?

A: Correct.

Q: Was there anybody else present, Mr Johnston and yourself, anybody else?

A: Yes.

Q: Who else?

A: I think Mr Weller was.

Q: Is that Mr Ken Weller?

A: Yes.

Q: He was then with Local 97?

A: No, he was with the international.

Q: He was the international representative of the lathers?

A: International.

Q: Yes. Please go ahead. He discussed whether 97 would do it or 562 would do it?

A: Yes. I says whoever does the job will do at a high rate, whatever which was a few cents difference between 562 and 97.

Q: Yes.

A: Mr Johnson says, well, Gus, tell Romanelli to get out of the job.

Q: Yes.

A: And says what about \$20,000 each, which they had met with Tony Cesaroni prior to.

Q: Did Mr Johnston say talk to Cesaroni?

A: Yes.

Q: And you say he said, 'How about \$20,000 each.' \$20,000 each to whom?

A: Well, to him and to me, you know.

Q: So we are talking about a total of \$40,000 are we?

A: I forget whether it was 40 or 60. I forget, somewhere in that number though.

Q: Was Mr Weller present during this conversation?

A: Yes, but he didn't say nothing.

Q: What did you say to that?

A: I told him that I wouldn't trust Tony as far as I could throw him and that Mr Romanelli had the same agreement. I wasn't going to tell Romanelli to get off the job.

We know that the offer was discussed by Simone with Joseph (Bill) Johnston, the business agent of Local 97, and Ken Weller, the international representative of the union. It seems that the offer was not accepted because they had no faith in Cesaroni. The following day, Cesaroni followed up with a meeting at the Mona Lisa Restaurant on Dufferin Street, at which time he purported to carry a threat from Irvine, the international vice-president of the union. Simone described the meeting.

Transcript Vol. 6, page 327

MR SHEPHERD: This is the next day?

MR SIMONE: The next day and he told me that he just was coming from Charlie Irvine's office, which is the plasterer International, that my neck was on the block unless I will go to Romanelli and tell him to get off the job.

Finally, it was agreed that Cesaroni and Romanelli should do the job together in Northdown's name. As we will see in due course, both Cesaroni and Romanelli acknowledge the essentials of the events described, but each have a different version. Before looking at their evidence, we should see what Johnson and Weller have to say about the offer.

In 1973 Joseph (Bill) Johnston became the business agent of the Carpenters' Local 1747, which in effect took over the remaining members of Local 97. He told us of discussions with Cesaroni to assure that the Hyatt House contract would be classified as a commercial project. Northdown had collective agreements with both Local 562 (residential) and Local 97 (commercial), while Durable had a collective agreement only with Local 562. Cesaroni hoped that such a classification would automatically eliminate Romanelli from the work. He was eager that Johnston and Weller make sure that he got the job.

Transcript Vol. 9, pages 992–3

MR SHEPHERD: What was the discussion?

MR JOHNSTON: Well he just wanted to make sure that we did everything in our power, as far as I was concerned, to make sure it was a commercial project.

Q: Yes. Was there any discussion about the Romanelli contract?

A: Oh yes.

Q: What was the discussion about that?

A: Just the possibility of Mr Romanelli – his name had been mentioned – the possibility of him ending up with the project.

Q: Why did Mr Cesaroni think there was a possibility of that?

A: Well, I guess it must have been somebody on the project or concerned with the project that stated this.

Q: And what did Mr Cesaroni want you or Mr Weller to do, if anything?

A: Well, I think he intimated that he wanted us to make sure that he got the job and my reply to him was that I personally couldn't care less who got the job, as long as our people were used under our agreement.

Johnston's evidence also made reference to the offer of \$70,000.

Transcript Vol. 9, pages 1001–2

MR SHEPHERD: What did you say, if anything, when Simone said that Cesaroni had offered him \$70,000 to ensure that Northdown got the contract?

MR JOHNSTON: I don't think I even commented on it because I didn't believe it.

Q: Now I think you were in court – or in this hearing room – when Mr Simone said on one occasion, and Mr Weller said earlier today, that there was a meeting at your house and Simone spoke of \$70,000, according to Simone, and according to Weller he spoke of a large sum of money. And according to Simone you said, 'Let's split it \$20,000 apiece,' or words to that effect. And Mr Weller's recollection was only that you said something to the effect, 'Let's split it three ways.' Did that occur?

A: I deny ever making that statement or anything even along those lines. I think it seems awful ridiculous if a man turns down \$70,000, how am I going to talk him into taking 20?

Q: So you did not say that, seriously or even in jest?

A: In any way, shape, or form.

Q: Did you ever refer again in the presence of any other people, to Simone telling you that he had been offered \$70,000 if Northdown could get the contract?

A: I reported it I think more than once, but at least once, to a general meeting with Local 97.

Ken Weller at the time in question was the international representative of the Wood, Wire, and Metal Lathers' International Union. Weller described a meeting which took place on 10 February 1971 between himself, Johnston, Cesaroni, and Gambin (partners of Northdown) at the Northdown offices, on the subject of the Hyatt House project. Cesaroni was fearful that Romanelli was going to get the job.

Transcript Vol. 9, page 939

MR SHEPHERD: And what did he want you to do?

MR WELLER: Well he wanted us to inform Romanelli that he could not bid that project or rather that he could not perform that project.

Q: Was Northdown in contractual relationship with Local 562?

A: Yes, they were.

Q: And was Mr Romanelli's company also in contractual relationship?

A: That is correct.

This is summed up in the following evidence.

Transcript Vol. 9, page 944

COMMISSIONER: Now, Mr Weller, you have expressed this in rather ambiguous terms. Are you in fact saying that what Simone said was that if Northdown can have their way there would be money available?

MR WELLER: Well, I wouldn't put it in exactly those words but I would say that it was suggested that if Northdown would have their way that – well I suppose it comes out the same but there would be money available, yes.

Q: And how much money?

A: Well I don't specifically remember the figure that was quoted but it was considerable in my mind the amount of money that was mentioned.

Q: Mr Simone has given evidence that he said something to the effect that he had been offered \$70,000. Does that figure mean anything to you?

A: Well I only say considerable because I can't be specific in the amount but it sounds that it would be in that neighbourhood, yes.

Q: Was there anything else said about money?

A: By anyone at the meeting?

Q: Yes?

A: Well it was suggested and Mr Johnson stated that why don't we take the money and split this money in order to give the Northdown Company that which they were requesting.

Weller further made the point that Simone had said that he would not become involved because he wouldn't trust Cesaroni as far as he could throw him.

Chester DeToni

In 1969, as has been described in chapter 1, Gino Da Re carried on a tile and terrazzo business known as Mercury Terrazzo Limited. Local 31 was the established union in the field and it had a collective agreement with the Toronto and District Marble and Terrazzo Association. Da Re was unable to join the Association. He needed a union agreement so that he could enter into subcontracts on union projects as a 'fair contractor.' Without that designation, jobs were denied to him. There were other contractors in the same position. Accordingly, they formed the Metro Marble and Tile Association and tried to get a collective agreement. Local 31 represented the Mechanics, while Local 56, an affiliated union, represented the Helpers. Danny DeMonte was the business manager for Local 31 and Chester DeToni was the business agent for Local 56. Various means were employed by the Association and its members to obtain a workable collective agreement with Local 31.

Through Chester DeToni, a request was made for payment of the sum of \$5000 by the Association, which was to be used to regulate the industry. The Association settled for \$2500 and that sum was paid by four members. Gino Da Re paid \$625 as the proceeds from cheque exhibit 505 dated 30 January 1969 in the sum of \$700. Bruno Tonelli, Bruno Manias, and Mario DeStefano each paid \$625.

Mario DeStefano carried on a tile and terrazzo business under the name of Bloor Tile and Terrazzo Limited. Like Da Re, he too was not a member of the Toronto and District Association, but he was able to obtain work with a small group of contractors to whom he was well known and this situation was tolerated by the union. He participated in the formation of Metro Tile and Terrazzo Association in order to negotiate a contract with Local 31. In 1969, he too contributed \$625 to the \$2500 and participated in the agreement (Exhibit 497).

Transcript Vol. 21, page 2952

MR MCRAE: Did you pay the \$625?

MR DESTEFANO: Yes I did. I didn't want to have enemies again around us.

Q: You say you didn't want to have enemies again around you?

A: Well, I wanted to be on friendly terms with everybody.

Q: I am producing a cheque, drawn on apparently your company account, Bloor Terrazzo and Tile and Mosaic account, and the cheque is dated 30 January 1969 and it is for \$600. Is that your signature on it?

A: Yes, that's my cheque. I drew the cheque and gave the \$600 plus \$25, I believe, another \$25, to Mr Gino Da Re.

Bruno Manias carried on business as Time Terrazzo and Tile Limited, with a maximum of ten employees. He also participated in the formation of The Metro Tile and Terrazzo Association in 1969. He contributed \$625 to the \$2500 which was paid to DeToni and DeMonte. He understood that it was paid in order to get a collective agreement.

Transcript Vol. 22, page 2993

COMMISSIONER: Who was to get the money?

MR MANIAS: I don't know at that time. I don't know. Gino Da Re he mentioned to me we got a person, good person to get this contract to enforce the contract. I don't know how to say it but I wasn't involved to who. I didn't ask to who, no. I just had confidence in Gino Da Re to get this contract out.

MR MCRAE: You were confident the money was to go to the right people?

A: Yes.

Q: With the result of the union contract, the agreement coming out?

A: Yes.

Q: And the union agreement with what union, what local of what union?

A: Well 31, yes.

Q: 31?

A: No other union. There was no other union at that time, no.

Bruno Tonelli carried on business as Continental Terrazzo and Marble Co. He recognized that Local 31 was the only effective union in the trade and as far back as 1968 spoke to DeMonte about a collective agreement. In 1969 he contributed \$625 towards the \$2500 payment in order to get a union agreement.

Transcript Vol. 22, page 3038

MR MCRAE: Now what happened to the money, the \$625, Mr Tonelli?

MR TONELLI: What happened to the money. At that time we tried to get the union organized.

Q: You mean you were trying to get a collective agreement for your men with the union?

A: Yes.

Chester DeToni admitted receiving \$1875 from Da Re and \$625 from Tonelli, making a total of \$2500. He said he gave \$900 of this amount to Simone for Zanini and kept \$525 for expenses in organizing the concrete forming sector.

Danny DeMonte

Da Re was anxious to be included in what he considered to be the charmed circle. As a result of a conversation with Danny DeMonte, in August 1971 he purchased a car for DeMonte who was then the business manager of Local 31. The net cost to Da Re was \$4051.25. Exhibit 508, which appears as appendix 47 is the purchase contract dated 16 August 1971, and exhibit 509, which appears as appendix 48 is Da Re's cheque in the sum of \$4051.25. DeMonte insisted that it was always his intention to pay this amount and that he considered the payment by Da Re to be a loan, but it was some two years later, after the Commission went into operation that DeMonte made his first gestures towards payment. After the public hearing before the Commission, he did repay the sum to Da Re.

Exhibit 757, now appearing as appendix 49 is a letter dated 16 November 1973 indicating the repayment for the car and the repayment of the travel expenses.

The evidence leads me to believe that this was not a loan transaction and the amount would never have been repaid without the intervention of the Commission. In any event, whether it is viewed as a loan or an outright gift, it cannot be justified. DeMonte in his position as the business manager of Local 31 was not entitled to any personal benefit from an employer of men seeking to become members of the union. From Da Re's point of view, the transaction had its desired effect.

Transcript Vol. 20, page 2700

MR DA RE: The relation changed quite a bit. I had in a way become one of the crowd. I never liked to be one of the crowd but I did become one of the crowd and –

COMMISSIONER: You were 'in,' was that it?

WITNESS: Yes, you could put it that way. I would get workers. Nobody would give me a fat job or anything. I was still not that good, but things were easing out at least in so far as what Mr DeMonte could have done for me. Those things were easing in so far as Mr DeMonte – I still have to cope with the fact of not having work and so on and so forth but at least I would have the workers.

A further payment was made on 26 May 1972 by Da Re in the sum of \$146 for air transportation from Toronto to New York for DeToni and DeMonte at their own request. Both DeToni and DeMonte stated that the trip to New York was made to learn about the new technology for the benefit of the trade and the union. That was the reason for accepting payment from Da Re.

Transcript Vol. 27, page 3710

COMMISSIONER: Well do I understand you correctly, Mr DeToni, that you are suggesting that the trip to New York for yourself and Mr DeMonte was with reference to some invention perhaps of the trade at which you would learn something about new techniques that would be of benefit to the contractors?

MR DETONI: Yes, and I want to make that very clear. It wasn't a weekend in New York.

Oliviero DeCarli was the president of Connolly Marble Limited, one of the more important contractors in the field. He was also the president of the Toronto and District Marble, Tile, Terrazzo Contractors' Association, and the Provincial Guild of the trade.

There seemed to be a strong alliance between Local 31 and DeCarli's associations. We had no evidence of large payments of money, but DeCarli did admit making a payment of about \$250 to DeMonte in or about 1970 and also on a previous occasion.

Transcript Vol. 22, pages 3129-31

MR MCRAE: Have you given any money to Mr DeMonte or Mr DeToni or other union people, any large sums of money? - I don't mean small Christmas gifts in the nature of five or ten dollars but -

MR DECARLI: No.

Q: Did your company?

A: Not the company.

Q: Have you personally?

A: Yes.

Q: What kind of gift have you given?

A: Not gifts but some cash three or four years ago.

Q: How much money did you give him?

A: Oh I would say it all amounted to somewhere between \$200 and \$250.

Somewhere in there. I can't give you -

Q: You say that was not a gift?

A: Well all right let's call it a gift.

Q: Why did you give it to him?

A: Well it's just one of those things. You asked me what I gave it to him for?

Q: Yes?

A: I couldn't tell you honestly. I don't know - about four years ago.

Q: You gave it to him just out of good will?

A: Just good will, something like that, yes. That's all there was. Nothing was asked for it, no promises made for it.

Q: You gave it out of your own pocket?

A: Yes.

Q: What about your brother? Did he give like gifts to him?

A: No, no, he didn't.

Q: Is that the only time?

A: I think there was one before roughly about the same amount. That may be ten years ago.

Q: \$200 or \$300?

A: Somewhere in that vicinity, in that area. I am sorry I can't remember.

Q: How did you pay it, in cash?

A: In cash.

COMMISSIONER: Do you know of any other members of your association that have given any cash to Mr DeMonte or Mr DeToni?

WITNESS: There may have been. There may very well have been.

DeMonte admitted receipt of a gift certificate, exhibit 663, for \$100 from Da Re in 1968, which was never used. He admitted the payments by DeCarli on two occasions.

Emil Lubinski

Emil Lubinski was president of the Plasterers Union Local 117 in 1968 and 1969. He became disenchanted with the international vice-president, Charles Irvine, when he became convinced that Irvine was doing business with the contractors to the detriment of the workers. He complained to the Department of Labour and was subsequently expelled from the union.

In 1970 he organized some of the plasterers into Local 31 under Danilo DeMonte. They signed collective agreements with Belmont and Northwest Plastering. It was in these circumstances that payments were made to Lubinski.

Ross McKenzie, the general manager of Northwest, stated that the \$1000 proceeds of a cheque dated 25 January 1971, exhibit 696, was paid to Lubinski. This evidence was corroborated by Vittore Contatto, a part owner of Northwest Plastering, who made the payment.

Lubinski stated that he received only \$400. The payment was shown in the books of Northwest as a disbursement for 'union dues.' Lubinski does acknowledge receipt of a second payment in the sum of \$350. It too was paid by Contatto and was the proceeds of a cheque, Exhibit 697 in the sum of \$350, dated 3 April 1971. At the time of these payments, Lubinski was in the employ of Local 31. He appreciated the impropriety of his act.

Transcript Vol. 28, pages 3977-8

COMMISSIONER: Contatto was a part owner of Northwest Plastering.

MR LUBINSKI: Yes.

COMMISSIONER: And that was one of the contractors that were taking your men, is it not?

WITNESS: Yes, sir.

COMMISSIONER: And you were complaining in Local 117 that the contractors and Irvine ran the union, so you would have the same thing in your union if you had the contractors paying you, would you not?

WITNESS: No, sir.

COMMISSIONER: How could you have the contractors paying you –

WITNESS: That is the reason I am not in the union right now.

COMMISSIONER: That may be, but if you are going to collect money from the contractors, it is pretty hard to keep the union independent, is it not?

WITNESS: Yes.

John D'Alimonte

John D'Alimonte began working as a crane operator in 1960 in the employ of DiLorenzo, the largest operator in the concrete forming sector of the industry. He was popularly known as 'Big John' and, because of his close association with DiLorenzo and the high esteem his fellow workers had for him, he had considerable influence in the field. In 1968, when Local 562 began to organize the concrete forming division, he was assigned by DiLorenzo to assist them.

Transcript Vol. 44, pages 6267–8

MR D'ALIMONTE: So he start to talk and then he says, 'John, I've got another job for you.' I said: 'What job is it?' you know. He said: 'You better go with these boys and make my own union.'

MR SHEPHERD: To make –

A: To 'make my own union.'

Q: 'Make my own union'?

A: Yes. I said, 'I don't care about the union but if you want me to go I go,' you know. I got no choice. So he said – Gus told Nick, Gus Simone told Nick, 'That's the only way to do it,' you know. 'We really need Big John,' you know. They call me Big John. 'We need Big John,' then we laughed. He said, 'Okay, I'll give you Big John,' and I went, two or three days later.

Q: And did you then go over to the union office, and you worked out of the union office at that time?

A: Yes.

In the beginning, although employed full time by the union, his wages were paid by DiLorenzo.

Transcript Vol. 44, page 6268

MR SHEPHERD: How about pay? Who paid you?

MR D'ALIMONTE: Well, if I recall for right, for two or three weeks I never received any pay.

Q: Yes.

A: Then I was scream about it. I said, 'Look, I got a bunch of child at home and nobody paying me. What the hell?' you know. So I went back to the office, which is Nick DiLorenzo's office you know, and I ask him, I said, 'Look, those people don't pay me and that's already three, four weeks. I need some money.' So he said, 'Okay, I look after,' and I get paid from him.

D'Alimonte remained in the employ of Local 562 from October 1968 to February 1969, when he returned to his original occupation as a crane operator in London, Ontario. Later in 1969 he returned to Toronto and, when the occasion arose, assisted Zanini in the organization of the Canadian Concrete Forming Union Local 1. On 5 June 1969, he was elected vice-president of the union. This union took over the membership of Local 562 (Concrete Forming Division) when a transfer to the Labourers' Union Local 183 failed to materialize. He resigned from Local 1 on 31 August 1969 and later took employment with the Building Trades Council to assist them in promoting their Concrete Forming Council in association with Tony Michael.

D'Alimonte told us that a month earlier he had been offered \$5000 and a trip to Italy to join the Council. John Stefanini of Local 183, who was with the Council at the time, knew of no such offer. It was never carried out.

Transcript Vol. 49, page 7144

MR SHEPHERD: Mr D'Alimonte said that prior to that time he had been offered \$5000 on one occasion and a trip to Italy on another occasion and Mr Zanini said also \$350 a week as a reward for changing sides but Mr D'Alimonte said that he did not change at that time and that he did not get any of those rewards. Do you have any knowledge of the offers?

MR STEFANINI: The first time I had knowledge of that offer was during this proceeding.

He told of receiving the following payments while organizing for the Concrete Forming Council. The Concrete Forming Council was a Council of international trade unions involved in the concrete forming sectors of construction. They consisted of carpenters, iron-rod men, cement masons, and labourers.

Between July and September 1970, D'Alimonte was confined to the hospital convalescing from an operation. Michael visited him regularly during this period and brought him his salary payment from the Council.

According to D'Alimonte, Fran-Kiri Construction, a concrete forming company had, shortly before his confinement to the hospital, agreed to pay \$4000 to be divided between him and Michael in consideration for tolerating a delay in payment of welfare check-off payments. Pursuant to the collective agreement, welfare payments had to be made monthly to the trustee to be managed on behalf of the members of the council unions who were in the employ of Fran-Kiri. D'Alimonte said that Michael brought him three payments of \$500 while he was in the hospital. Later, he and Michael each received another payment of \$500 in a Finch Avenue restaurant.

Tony Michael testified that he was, in the spring of 1970, employed by the Concrete Forming Council as an administrator. A collective agreement (exhibit 919) had been negotiated on 8 November 1968, and a subsequent addendum was added (exhibit 951) requiring the payment of 15c per hour to a welfare fund (appendix 50). He recognized that D'Alimonte and he had the obligation of enforcing the agreement.

Transcript Vol. 46, page 6576

MR MCRAE: Was it your responsibility and Mr D'Alimonte's responsibility to see that, so far as you were able to see, that the contractors lived up to the terms of the agreement and the addendum?

MR MICHAEL: Yes.

He acknowledged that a number of contractors, including Fran-Kiri, were from time to time delinquent in their payments. Michael, however, denied receiving any improper payments from Fran-Kiri.

Transcript Vol. 46, page 6586

MR MCRAE: Now, you have heard evidence from Mr D'Alimonte and Mr Vlahos that a total sum of \$2000 was paid to you in 1970, as consideration for Mr Vlahos' company or companies not making the necessary and required welfare payments. What do you say about that, Mr Michael?

MR MICHAEL: It is not true.

Q: It is not true? Did you receive any money directly or indirectly from Mr Vlahos or any of his companies in consideration for you not forcing the welfare payment agreement?

A: No.

D'Alimonte told us of a gift of a suit by Fran-Kiri to Michael.

Transcript Vol. 44, page 6313

MR SHEPHERD: Do you know whether Mr Michaels received anything else?

MR D'ALIMONTE: Well, he told me he was sent by Fran-Kiri to the tailor house for suit.

Q: To have a suit made?

A: Yes. I never seen it.

Michael admitted receiving a suit but insisted that he personally had paid for it.

Transcript Vol. 46, page 6587

MR MCRAE: Mr Vlahos tells us also that he bought a suit for you. What do you say about that?

MR MICHAEL: The suit incident is – I paid for that suit myself. We were discussing in his office – I had meetings with him regarding other violations as well and, from time to time, we met and the situation got around – the conversation got around to clothes and he told me he knew a tailor.

Q: What was the tailor's name?

A: I know of it now; I heard it here yesterday. It was Paul's Tailor, I believe, and he told me that this tailor was making suits at a very reasonable price; and I believe there was an inference there, if I wanted to pick it up, that I could have a suit or suits. The only thing I picked up was the information and I went down and I got a suit and I paid for it.

The records of the tailor were, unfortunately, not available for inspection, but Vlahos, the president of Fran-Kiri, insisted that he had paid the bill.

Michael stated that although there had been as much as \$50,000 outstanding in welfare payments, he did take reasonable steps to see that the payments were made as required.

Transcript Vol. 46, page 6591

MR MCRAE: Right. How much money was owing for welfare payments under the agreement for all of Mr Vlahos' companies? Say when we get into the fall of 1971, how much money are we talking about it was in arrears?

MR MICHAEL: I don't know.

Q: You never enquired? You're –

A: I don't remember the figures.

Q: – the professional administrator.

A: That's a long time ago.

Q: Would it be many thousands of dollars?

A: It could be.

Q: \$50,000 maybe?

A: It could be.

Transcript Vol. 46, page 6595

COMMISSIONER: So that what you refer to as enforcing the agreement was these letters that have been put in exhibits?

MR MICHAEL: Yes.

Michael denied that he was in charge and had authority over D'Alimonte.

Transcript Vol. 46, page 6574

MR MCRAE: Were you basically in charge then of the operations?

MR MICHAEL: Basically in charge of the operations? That is a very broad question.

Q: Who else was there administering besides you?

A: Administering, there was a chief organizer there.

Q: Who was that?

A: In charge of organizing.

Q: Who was that?

A: D'Alimonte.

Q: D'Alimonte?

A: Yes.

Q: Was it you then and D'Alimonte that were running the Council at that time?

A: We were the paid staff of the Council.

John Stefanini, the business manager of Local 183, who was active in the Concrete Forming Council, said that Michael was in charge.

Transcript Vol. 49, page 7145

MRS SHEPHERD: Mr Michael, however, was the administrator. Is that correct?

MR STEFANINI: Yes, when Mr Michael lost his election as representative of the Iron Workers local and because of his past contribution in organizing concrete forming in the past he was recommended to the Forming Council that he be hired as an organizer. At that time I became concerned about Mr D'Alimonte and Mr Michael, you know, if the two of them could get together and Mr D'Alimonte made it clear that he had no objection whatsoever to working under Mr Tony Michael's direction.

Q: Yes.

A: And therefore it was decided that Mr Michael would be the administrator and Mr D'Alimonte would work under his direction.

Q: So Mr Michael was senior to Mr D'Alimonte?

A: No question about it, sir.

Kiriakos Vlahos worked for DiLorenzo from 1959 to 1967 and then went into the concrete forming business on his own using several corporate names, including Fran-Kiri Forming Limited, and A.C.V. Cranes Limited. In 1968, efforts were made by Simone and Zanini to organize his employees into Local 562.

Other contractors in the field, such as Leader, Century, and Direct Forming, convinced Vlahos that his employees should be organized into the Concrete Forming Council of unions. Having signed a collective agreement, he made payments to the welfare fund, pursuant to the addendum (exhibit 951) for the first three months of an eighteen-month period, from May 1970 to October 1971. He was in financial trouble and he told us of an arrangement with Michael and D'Alimonte to give them \$4000 in consideration for their forbearance in collecting the arrears.

Transcript Vol. 45, page 6531

MR VLAHOS: Well, what was said now – now this is what I can't remember: they ask for money from me or I am the one who offer them.

MR SHEPHERD: I see.

A: Now this I can't recall how it was, but as far as I know we give them \$4000.

Q: Yes? You are saying that either Mr Michaels and Mr D'Alimonte asked you for money or you suggested that you would give it to them; is that right?

A: True.

Q: This is money to them personally; is that right?

A: Yes. For them, yes.

Q: And what were they to do in return for you giving them the money?

A: To lay off, leave me alone until I finish those jobs; and we will see later on.

He calculated that he had thereby effected a substantial saving.

Transcript Vol. 45, page 6537

MR SHEPHERD: Yes. If that is so, then it is probably fair to say that the total which should have been paid into the welfare fund over the fifteen months would have run something in the order of \$40,000, say? An average of around \$2600 a month or thereabouts? Does that sound about right?

MR VLAHOS: Fifteen months.

Q: Yes. You paid for May, June, July, and then it is August of 1970 to October, 1971.

A: You are right. Around there, yes. \$35,000, \$40,000.

Q: Of which you say that Mr Michaels and Mr D'Alimonte got \$4000; is that correct?

A: Yes.

Frank Cortese, a partner in Fran-Kiri and A.C.V. Crane, confirmed the arrangement.

Transcript Vol. 46, pages 6621-2

COMMISSIONER: Was it your understanding that you would not have to pay the welfare payments when you paid the \$4000?

MR CORTESE: Yes.

It would appear to me that the \$4000 had been paid to D'Alimonte and Michael in consideration of their forbearance to collect the arrears of payments to the welfare fund. In addition to the weight of the above evidence, it would seem to me that a payment to D'Alimonte alone could not have been effective. It is a reasonable inference from the circumstances that the payment of \$4000 was made to both D'Alimonte and Michael.

Another incident was related by James R. Dawe, who is now the owner of Dawe Forming Company Limited and in 1968 was associated with DiLorenzo. He was an impartial witness. He implied that it was characteristic of D'Alimonte to ask for money.

Transcript Vol. 50, page 7425

MR SHEPHERD: Evidence was given – one last thing, Mr Dawe – no, that is not correct; evidence was not given, but questions were put to a witness suggesting that a man, John D'Alimonte, had from time to time asked you to give him money. What is the truth of this matter?

MR DAWE: Well, he didn't ask outright for me to give him money. He just mentioned, just on one occasion, that his children could use new coats, or something. There was an inference.

Charles Guagliano

Charles Guagliano was the business manager and financial secretary of the Carpenters Union Local 18 at Hamilton. In 1970, there were about 1200 union members and the annual income was well in excess of \$100,000. The

union also carried vacation pay and welfare fund accounts. The vacation pay fund was handled through a special account in the Fidelity Loan and Saving Company, while the welfare fund was managed by Tomlinson Commercial Services pursuant to agreements between the union and the respective employers.

J. Herbert Myles was the branch manager of the Jones Street Branch, Hamilton, Ontario, of the Fidelity Loan and Savings Company. Fidelity had carried the accounts for the Carpenters Union, Local 18, since August 1936. They were substantial accounts with a balance which fluctuated between \$100,000 and \$150,000. In the fall of 1969, additional accounts were opened to administer the vacation pay and the welfare fund. Myles stated that he had had a number of conversations with Guagliano and was left with the impression that Guagliano wanted some benefit in return for the placement of these accounts with Fidelity. Myles said that Guagliano spoke to him as follows.

Transcript Vol. 55, page 8213

MR MYLES: Yes. I gradually got the impression from Mr Guagliano that he wanted certain things from us. As a matter of fact, he started out by telling me there was a rival company that was prepared to hire him as agent and fly him to Montreal at their expense, and interview them. And there was another company in town who was interested in paying him benefits to get the business, and why didn't our company hire him as agent to get the business of all the other unions as well as the Carpenters. At one point he said whoever gets his business, there is going to have to be something in it for him. I said, what do you want, and this is when he first mentioned that he needed mortgages. It would have to be up –

MR MCRAE: This was in conversation with yourself?

A: Yes.

Q: Before the Thistle Club?

A: Yes. Up to full value of the house and the rate would have to be low enough so that over a period of years he could get about \$3800 in benefits out of it.

Myles became concerned about losing the accounts and, accordingly, arranged a meeting at the Thistle Club in Hamilton so that James Walton, the superintendent, and William Muir, the assistant general manager, could be apprised of the situation in the event that the union accounts were withdrawn.

Transcript Vol. 55, page 8205

MR WALTON: Mr Myles' report to me was when this proposition was made to him at his branch he was considerably upset about it and realized the implications, that he might possibly lose all the Carpenters business and wanted to discuss this in order that there would be a witness to the discussion.

James Walton, the superintendent of savings and branches of Fidelity, testified that he was present in the spring of 1970 at the meeting when Guagliano spoke of the union accounts and suggested that he was entitled to favourable mortgage treatment.

Transcript Vol. 55, page 8202

MR WALTON: Mr Guagliano mentioned that he had two or three properties that he was the owner of and he would want favourable mortgage treatment on those properties from our company.

MR MCRAE: Did you understand these to be personal properties of his own?

A: I understand that, but I do not believe that we did ask specifically whether they were personal properties or whatever.

Q: Did he tell you anything about the nature of the mortgages?

A: He indicated that he wanted far larger mortgages on those properties than our assessment, and a much lower interest rate than our normal interest rate would be.

Q: And if your company was prepared to do that, what would happen?

A: It was indicated that he would recommend to the union that the accounts be transferred or given to us.

William Muir, the assistant general manager of Fidelity, also gave evidence. He too was present at the Thistle Club in the spring of 1970. He stated that Guagliano referred to three pieces of real estate and asked for a special rate of mortgage interest in consideration for the union business.

Transcript Vol. 60, page 8899

MR MCRAE: Who mentioned the three pieces of real estate?

MR MUIR: Mr Guagliano.

Q: Mr Guagliano?

A: And would we be willing to give mortgages, either high percentage mortgages or at a special rate in order to, I could not recall whether it was get the business or keep the business. I can't recollect as to what stage the vacation pay fund was at that point.

Q: What was your reply?

A: We could not. As I recall, the meeting broke up fairly shortly after that.

Guagliano was told that he would be entitled to a referral fee which could be paid in the regular way and duly reported as required. This did not satisfy Guagliano.

Transcript Vol. 55, page 8215

MR MYLES: Later he mentioned to me that he would forget about the mortgages, but he needed a referral fee of about \$2000 to \$4000, somewhere in there, and that no one was to know about it. It was supposed to be paid in a way that no one else would know that he got it. So I referred that to head office as well, and they came back and told me they would pay a fee to Mr Guagliano if everyone knew about it; if we filed T-5 slips with the union and everybody involved knew that he got the money. He was in the office at the time I told him, and my staff overheard it. He became very angry. I think I have a note here of what he said at the time because I did write a note on it. Mr. Guagliano responded with an angry and loud comment that we apparently didn't want the business, but there were several other financial institutions that would be happy to do business his way, and he was going to take the business to one of them. The account was subsequently transferred to another financial institution in town.

Accordingly, nothing was paid to Guagliano and no special treatment was offered to him in connection with mortgages. In due course, the union accounts were transferred from the Fidelity Loan and Savings Company to the Hamilton Trust Company.

Charles Guagliano confirmed the Fidelity Loan and Savings Company bank accounts. He admitted that as a member of the executive he would participate in decisions about the accounts and that as financial secretary and business manager he would comment on the calibre of the service.

Transcript Vol. 60, page 8855

MR MCRAE: Is it true as Mr Myles says, in the fall of 1969 your union local signed a new contract, a new collective agreement which would set up a vacation pay account?

MR GUAGLIANO: I think it was in 1969, vacation pay. I am not too sure. I would have to look it up.

Q: And a welfare trust account?

A: I don't think they both came in together. I think one came in after the other.

He stated that Myles tried to win his support for the accounts of other unions.

Transcript Vol. 60, page 8856

MR MCRAE: Was Mr Myles – let me put it this way – lobbying with you attempting to convince you that Fidelity should get those two accounts as well as other accounts it already had?

MR GUAGLIANO: Mr Myles lobbied with me and I had so many coffees that I was sick and tired of coffee. Each time I would go up to Fidelity – first and foremost, the parking facilities, I would have to sneak into a lot or try and find some place to park. I would discuss this with him quite a bit. He would take me around through the office building on James South where they are in. There was a coffee shop just to the side of it and he would discuss with me many, many times the possibility of my getting new accounts from other unions for him, as he had now been aware from the trustees or somebody else – he stated, ‘From others in your union.’ I can only surmise it was the trustees that told him, that there were eighteen other craft unions and they were just as big or bigger than the Carpenters union. So he envisioned in his mind if he could get all those accounts or some of them that he would be somebody to be contended with in the banking field.

Q: He wanted the business, putting it frankly?

A: Yes, he did.

He denied requesting any preferential mortgage treatment, but stated that Walton had offered some inducement to him.

Transcript Vol. 60, page 8859

MR MCRAE: Did you tell, first of all, Mr Myles you needed in consideration for you seeing the new accounts were opened, that you needed mortgages on some properties you owned up to the full value of those properties?

MR GUAGLIANO: No, I definitely didn’t. I don’t own any properties.

Q: Do you own a house?

A: No, I do not.

Q: At that time?

A: No. My wife did.

Q: Properties your wife owned?

A: No, I didn’t. Mr Walton – in fact the first time I heard of it when I talked to him in the Junior Chamber of Commerce. He had stated, as I had stated I couldn’t do it, and even if I was considering it I would first bring it up to my executive and get their approval. They wouldn’t want any conflict of interest. And he stated well, okay. If you must do that, you must do that. Then we will turn around and give you a break of a mortgage if you will take a mortgage out with us.

Q: Mr Walton said that?

A: One hundred per cent. One hundred per cent.

He acknowledged the meeting at the Thistle Club but denied the conversation about referral fees. According to him, the discussion was directed to the accounts of other unions. He said that the Fidelity people mistakenly thought that he could use his influence to obtain the accounts of other unions for their company. Guagliano stated that the accounts were removed from the Fidelity Company because of errors and confusion.

I was much more impressed with the evidence of Myles, Walton, and Muir than I was with the evidence of Guagliano. The evidence is clear that Guagliano did seek to obtain for himself some benefit from the placing of the union's bank accounts. If he had been successful, he would have obtained a corrupt benefit in consideration of doing something relating to the affairs of his principal, the Carpenters Union Local 18.

Bruno Zanini

Bruno Zanini's interest in labour organization dated back to 1955. In 1968, he was engaged by Simone to assist in the organization of the concrete forming division of Local 562. In so doing he became involved with DiLorenzo.

On 8 December 1969, Inspector Dorigo, who at that time was investigating the violence in the concrete forming sector of the building industry, interviewed Zanini. Simone had stated that DiLorenzo had made a payment of \$1500 to Zanini which had been delivered to him by DiLorenzo's foreman, George Orla. After some discussion, Zanini did admit to Dorigo that he had in fact received such a payment. The evidence of Inspector Dorigo was presented earlier in the discussion of the Leader office fire. It reveals that DiLorenzo paid money to Zanini.

Dorigo was interested in isolating that payment from other money received because of the relation to the Leader fire.

Transcript Vol. 48, page 7056

MR DORIGO: We were primarily concerned with this particular incident at the interview and by that time we had been made aware of, say, it has been brought up in evidence the \$400 presented to him at DiLorenzo's. There were other monies more or less directed towards him but we were primarily concerned with the leader office fire and the \$1500.

MR CHARLEBOIS: I think that answers it. You in your own mind thought when he said more than \$1500, he was referring to stuff that you already knew about?

A: That is right, sir.

Simone had testified that three days before the Leader fire, Orla had given Zanini an envelope containing \$1500.

Transcript Vol. 42, page 5971

MR SIMONE: About three days or four days before the fire, George Orla come into the office and left an envelope to give to Bruno.

MR SHEPHERD: Orla was then working for DiLorenzo?

A: Right.

Q: Yes.

A: And so I give the envelope to Bruno and I could see there wasn't a letter in there. I could see there must have been some money in it, but I didn't see how much was on it.

Q: Yes.

A: I asked Bruno how much. He said he did give me something. I got \$1500.

Q: Yes.

A: And I didn't say anything from there on. But then Leader's office got on fire and I asked him, I said you must have been part of it.

Q: Yes.

A: And he says that he wasn't. He might have done it but when he got there or he sent somebody there the thing was already on fire.

Zanini insisted that there was no specific payment of \$1500 and that he was not involved with the Leader fire. There is a strong suggestion from the evidence that Zanini did in fact receive the \$1500 as indicated.

In the chapter on other illegal union activities, we will again deal with the transfer of the concrete forming workers from the Lathers Union 562 to the Labourers Union Local 183. In connection with that transfer, Zanini seemed to have been of the opinion that the organizers were possessed of a valuable asset that could be sold.

The Building Trades Department of AFL-CIO in Washington were of the opinion that Local 562 did not have the jurisdiction, but the international president of the Lathers, Sal Masso, did for a time encourage Simone to carry on. Eventually it became apparent that Local 562 would have to divest itself of this sector. Negotiations were carried on with the Labourers Union 183. It was understood that the organizational expenses, which amounted to about \$15,000 would be paid to Local 562 by Local 183.

Transcript Vol. 42, page 6005

MR SHEPHERD: All right. Now was anything said or done about the money, some \$16,000 which Local 562 had expended to that date in connection with its organizing activities?

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MR SIMONE: Yes, that money was discussed, and then was asked I should have a little meeting with Fosco and Masso and by myself and I brought money up, and I told them that around 15 or 16 thousand 562 had spent, and Masso says, 'Don't worry about it, Fosco is going to look after you; anything will be repaid then.'

Q: Yes.

A: So that I take it that for us to send bill in after thing would be turned over to Local 183 and they would repay the money.

Zanini was anxious to handle the negotiations and requested that the arrangements be confirmed by the international president of the Labourers Union, Mr Fosco. Fosco would not go beyond payment of Local 562's actual expenses. Simone described the meeting.

Transcript Vol. 42, page 5993

MR SIMONE: Well, Bruno asked me, he said, 'Let me do the negotiation, because they have got a lot of money.' I said, 'You go ahead; do the negotiation,' and when we got to the office we went up to the room in his office there and Bruno started to talk that a lot of money was spent to organize these people and some money cannot be accounted for. I says, 'Well, not that I know money that cannot be accounted for. Maybe we worked extra hours for which we did not get paid for,' and the Labourers international says well, Mr Fosco said, 'whatever the costs did occur in Local 562, the Lathers we will repay back; send the bill in and we will repay it.'

John Carlo Stefanini was, in 1969, the business manager and secretary treasurer of the Labourers Union Local 183. They were interested in organizing the concrete forming workers. In January 1969, Stefanini began discussions with Simone with a view to merging a Concrete Forming Division of Local 562 with Local 183. Simone had to discuss the matter with Zanini.

At a second meeting in February 1969 in the presence of Zanini there was an expression in favour of merger. Then in March 1969, there were detailed discussions about the employment in Local 183 for both Zanini and Simone. Simone would also continue to be employed by Local 562. Zanini was to be paid \$200 per week for three years, plus a bonus of three-months wages for his efforts in organizing, and Local 562 would be repaid their organization expenses.

Transcript Vol. 49, pages 7102-3

MR STEFANINI: It was discussed, the terms of employment of Mr Zanini and

also Mr Zanini claimed that he worked for three months without any wages while organizing the concrete forming workers. And there was Local 183 position pay wages Mr Zanini lost while organizing these men. He would be reimbursed for at the same salary as Local 183 representatives.

MR SHEPHERD: Would these be months in the summer and early fall of 1968?

A: According to Mr Zanini, yes.

Q: So how many years' employment was he to have?

A: Three years' employment.

Q: At what salary?

A: At the going salary of 183 representatives.

Q: Would that be a foreman's wages for a 40-hour week?

A: No sir. Our salary was based on lead miner's rate in the subway and on the 45-hour week.

Q: Do you recall what the hourly rate was at that time for a lead miner?

A: Not really, sir, but I think our salary at that time was around \$200 a week.

Q: So Mr Zanini was to have three years' employment and was also to be given three months' salary because he contended that he had not been paid in respect of the first three months that he had been engaged in organizing these men.

A: Yes, sir. We also – Mr Simone also brought up the matter of the expense for Local 562.

Q: Yes.

A: And we made a commitment that we would recommend that these legitimate expenses that Local 562 could prove would be reimbursed.

These arrangements were agreed upon at a subsequent meeting with the international representatives of Local 183.

Transcript Vol. 49, page 7108

MR SHEPHERD: Now what did you understand was to be done?

MR STEFANINI: I understood that Mr Zanini and Mr Simone would be employed as representatives of Local 183 and would sign up the concrete forming workers under Local 183 and that Mr Simone would not – and that Local 562 would not claim bargaining rights.

In view of these negotiations, it was surprising to find that Simone and Zanini continued to organize for Local 562. On 1 May 1969, Stefanini demanded an explanation from Simone and Zanini. Zanini's reply revealed why they were dragging their feet. He requested payment of \$25,000.

Transcript Vol. 49, pages 7109–10

MR SHEPHERD: What was the conversation?

MR STEFANINI: I asked the reason why the past agreement and understanding were not implemented and Mr Zanini was very evasive and said we need more money than that.

Q: Yes.

A: And I said, 'what are you talking about?' 'Well,' he said, 'all the people that have been organizing the concrete forming workers, and we had to compensate them.' I asked who, and he did not mention any. I said, 'what amount are you talking about,' and he was evasive, and I said, 'are you talking \$5000?' He replied, 'carry on.' I said are you talking about \$10,000, \$15,000, \$20,000, \$25,000 and when I said \$25,000, he said that will do.

This proposition was not acceptable to the international representatives of Local 183 and their legal counsel, Robert Connerton, spoke to Simone.

Transcript Vol. 49, pages 7112–13

MR STEFANINI: After that, we went for lunch, and on our way over I informed Mr Connerton about the request made by Mr Zanini.

MR SHEPHERD: You told Mr Connerton?

A: Yes.

Q: What did he say?

A: 'My God,' he said, 'this is what I was afraid of. We are not in business to buy people but to represent them.'

Q: What did you do then?

A: Mr Connerton wanted to speak to Mr Simone.

Q: Yes?

A: And through the facility of his office in Toronto arrangements were made to meet Mr Simone at the King Edward Hotel shortly after in the afternoon.

Q: Were you present at that meeting?

A: Yes.

Q: That is Mr Reilly, Mr Connerton, yourself and Mr Simone?

A: Mr Simone, Mr Connerton, and myself.

Q: I see. What was said at that meeting?

A: Mr Connerton told words to this effect to Mr Simone: Gus, you are too young to be mixed up in things like this.

Q: Yes.

A: And Mr Simone would reply it is not me that wants the money, it is Mr Zanini, and only to supply the expenses of Local 562.

Q: Yes?

A: Then Mr Connerton was pleased about it and said why don't we arrange a meeting and let's get the thing over. You call Bruno, and we will try to arrange a meeting, and a meeting was arranged shortly after, the same day.

The parties then attended at a lawyer's office to confirm the earlier arrangement by some written document. The document has never appeared. At this time, it was agreed that Zanini would receive the three months' bonus, a three-year guarantee of employment, and a reinstatement of his pension benefits with the union. Simone was to remain with Local 562 and, in addition, was to be engaged as a director for Local 183 to assist in organizing for so long as his services were necessary.

Simone and Zanini went to Washington with Connerton, where Zanini phoned Irvine. Irvine sent Zanini back to Toronto and took Simone to meet with the international officers in Washington. Simone was later told by Sal Masso to continue with the concrete forming division but to watch Irvine. Meanwhile, other unions were pressing the Building Trades Department of the AFL-CIO International to deprive Local 562 of the concrete forming division, but the president assured Simone that no union had ever been expelled from the Building Trades Department for organizing activities. In spite of this, Simone later, over the objections of Irvine, went to Chicago to meet with the Labourers Union. Zanini in the meantime, working on his own set the stage for the formation of an independent union. The only clear motive in all of this confused activity was that Zanini and Simone wanted to be paid, and when Zanini realized that this could not be achieved he scuttled the plans to transfer the membership to the Labourers Local 183.

Charles Irvine

Charles Irvine, as we have seen, was the vice-president in Canada of the Plasterers and Cement Masons International Union, with authority over Locals 48, 117, and 598. Shahid Minto, one of the accountants employed by the Commission, investigated the books and records of Local 117 and Local 598, as well as Irvine's personal affairs. The poor state of the books and records of the two locals is discussed elsewhere in this report. With reference to Irvine, Minto gave evidence of deposits of large sums of money to his personal bank accounts. The source of this money was never explained. Schedule 5 of exhibit 782, appendix 51, shows that \$11,899.73 was received by Irvine under these circumstances. When one considers the evidence of Emile Lubinski, the president of Local 117, that 'the contractors and Charlie Irvine ran the union,' it raises a strong suspicion about the source of this money.

COMPANY SIDE

The Commission investigation revealed illegal activities in the form of payoffs by subcontractors to agents of owners and general contractors. In some cases, the payors were placed in a preferred position in obtaining contracts. In other cases, they were placed in a better position in the execution of contracts otherwise regularly awarded.

People in the industry were well aware of this state of affairs. Cesido Romanelli had carried on business for a number of years working exclusively for the DelZotto interests. In 1971 he began to spread his wings and look for outside contracts. He was admittedly disappointed in the results. He attributed his poor showing to payoffs by competitors.

Transcript Vol. 15, pages 2001-2

MR SHEPHERD: Now I want to give you a full opportunity to say anything which is truthful and relevant which you want to say to explain why you are the low bidder and your work is good and you don't get any jobs?

MR ROMANELLI: Well, Mr Shepherd, I can't really answer that because, like I said before, those guys, they combining team in the city, a lot of the payoff underneath the table, they would get most of the jobs.

When a person corruptly gives to an agent or when an agent corruptly receives from a person a benefit of any kind as consideration for doing any act relating to the business of his principal, that may constitute an illegal activity (see Section 383 of The Criminal Code Appendix 41). The evidence disclosed a number of instances where this may have taken place.

Norman Donaldson of Northdown identified exhibit 408 appendix 52, a cheque made out to 'cash' in the sum of \$8000 dated 21 December 1970 and Exhibit 409, appendix 53 being a cheque made out to 'cash' for \$6000 dated 19 April 1972. He stated that the proceeds of these cheques had been paid to employees of other companies for assistance in submitting bids. He refused to divulge the names of the recipients. This necessitated an application under the Public Inquiries Act, section 8. The Divisional Court found that Donaldson was in contempt for refusing to answer and ordered him to do so. On his return to the hearing, Donaldson stated that the proceeds of exhibit 408 had been paid in cash to Robert McKean and the proceeds of exhibit 409 had been paid in cash to Alex Thomson.

Robert McKean

Robert McKean was employed in a managerial capacity by Mitchell Construction Company (Canada), a general contractor. Mitchell had awarded

Northdown many subcontracts in the construction of large buildings. Norman Donaldson explained this payment to McKean on the basis of services to Northdown. McKean and Donaldson were personal friends. The money was paid in cash with no identification and entered in the books of Donaldson's company as sales promotion. Bearing in mind that the name of the recipient was given only after the conviction for contempt and that the principal of the recipient did not know of this payment, it would be reasonable to infer that the payment constituted a corrupt benefit given in consideration for doing some act relating to the affairs of the principal.

Transcript Vol. 24, pages 3391-2

MR SHEPHERD: Again I will go over this very, very quickly because we have already been over this before in connection with the other payment. Again there is no invoice for this work then, is there?

MR DONALDSON: No.

Q: And you paid it in cash and charged it to sales promotion?

A: Yes.

Q: And Mr McKean was then working for the company with which you had contractual relationships and subsequently you were unwilling to reveal his name and I take it that that is for the same reason you have already given us about Mr Thomson. Is that correct?

A: That is correct.

Robert McKean stated that he was a director of Mitchell Construction Company and responsible for letting subcontracts. He admitted the receipt of the \$8000 in cash in an envelope at lunch with Donaldson in December 1970. He disclosed that his principal had entered into contracts with Donaldson's company on 8 December 1970 for \$550,000 and on 17 December 1970 for \$100,000. The gist of the matter is clearly set forth in the following evidence.

Transcript Vol. 24, page 3428

MR SHEPHERD: So he might get an advantage thereby?

MR MCKEAN: Yes. Sometimes that would happen.

Q: Then is there anything else that you were able to do for him?

A: It is hard for me to recall all the telephone conversations and conversations we had about jobs, and I am sure along the way I was a lot of help to Norman.

It is a reasonable inference from the circumstances that the payment of \$8000 constituted a corrupt benefit to McKean.

Alex Thomson

Alex Thomson was employed as a project manager with Sheraton Construction, a subsidiary of Y & R Properties Limited. Norman Donaldson, having originally refused to divulge the name of the recipient of the \$6000 then, when compelled to answer, went on to explain that this sum was paid for what Thomson had done for Northdown Homes earlier in 1972. This differed somewhat from the original explanation.

Transcript Vol. 24, pages 3371-2

MR SHEPHERD: Why did you pay that money to him?

MR DONALDSON: That was paid for work he did for – in relation to work he did for Northdown Homes particularly. He did a very thorough investigation of land and house building, particularly in the Barrie area of Ontario.

Q: When did he do this, Mr Donaldson?

A: Oh, he did this early last year.

Q: Early in 1972, do you say?

A: Yes.

It is strange that he would not have given this apparently satisfactory explanation in the first instance. He may have been troubled by the entry in the books of Northdown Lathing which shows this payment as sales promotion and the fact that the payment was made to Thomson in cash.

Donaldson then testified that they had paid no money to Thomson other than the \$6000. The following day, however, through his solicitor, information was supplied to commission counsel about another large payment.

Alex Thomson gave evidence that he had been employed as a project manager with Sheraton Construction. In 1971 Sheraton had awarded Northdown a \$500,000 contract for drywall at 390 Bay Street, Toronto. He admitted receiving \$6000 in cash from Donaldson on about 21 April 1972 at lunch.

Transcript Vol. 24, page 3435

MR SHEPHERD: You got the sum of \$6000 in cash?

MR THOMSON: That is correct.

Q: In the month of April?

A: Yes.

Q: Now, you produced certain documents, Mr Thomson?

A: Yes, I have.

Q: You sent them to me yesterday and I would like to give them to you. Would you please tell me first where did you receive the \$6000?

A: Where?

Q: Yes.

A: To the best of my recollection I had lunch with Mr Donaldson and he handed it to me during the lunch meeting.

He explained that it was a payment by Northdown Homes Limited for a feasibility study which he had made for them on a projected housing development in the Barrie area. Exhibit 611 is a photocopy of what purports to be the \$6000 study. I have carefully examined the exhibits and considered the evidence. Exhibit 611 strikes me as a crude attempt to camouflage the \$6000 payment.

Thomson goes on to testify that this was the only money received from Donaldson.

Transcript Vol. 24, page 3446

MR SHEPHERD: Is this the only money that you ever received from Mr Donaldson?

MR THOMSON: Yes.

He also testified that he had received no other payments from anyone.

Transcript Vol. 24, page 3451

MR SHEPHERD: Mr Thomson, have you ever received any money other than the money from Northdown of which we have spoken, from any company which was, at the time you received the money, a party to a contract with your employer or in negotiation with your employer?

MR THOMSON: No, never.

Donaldson and Thomson stated in their evidence that Northdown was the lowest bidder on the 390 Bay Street project. If that were a fact, there would still be other circumstances to be considered in assessing the nature and purpose of the \$6000 payment, as well as the larger payment which was discovered later. There is, however, good reason to believe that under different circumstances Northdown would not have been the lowest bidder.

Stan Sosin of Acme was, at the time, completing a drywall contract for the Thompson Building on Queen Street adjacent to 390 Bay Street. He obtained a set of plans for the Bay Street project and returned to submit a bid of \$420,000. The contract awarded to Northdown was in the sum of \$485,000. When he returned to Thomson with the Acme bid, he found

Thomson very hostile. Sosin, having read in the newspapers an account of the evidence given by Cesaroni and Thomson about the lowest bid, reacted spontaneously by volunteering to give evidence at the Commission hearings.

Transcript Vol. 26, pages 3642–3

MR SHEPHERD: Did you offer him the written bid?

MR SOSIN: I left it there. I left the plans and the bid together and the specifications all there in the office. Right in the corner. In the job shack.

Q: What did Mr Thomson say to you?

A: He told me to leave the office. He was not interested. He didn't think – he wasn't interested in any alternative.

Q: Yes.

A: And that he was annoyed that I had come without an appointment and he just wasn't interested in talking to me. And I went back to talk to my boss, Mr Kanner, because Mr Kanner was interested in seeing how it had gone. I said, 'Listen, the guy threw me out. I have never been thrown out of an office like that before. It was really unusual. Wasn't interested in saving money.

Later, when Thomson and Sosin were confronted Thomson denied ever having seen Sosin. Sosin was able to identify Thomson.

Transcript Vol. 56, page 8328

MR MCRAE: What do you say? Did Mr Sosin come into the construction shack at 390 Bay Street as he stated?

MR THOMSON: I have never seen him before this morning.

Q: He didn't come into the construction shack at 390 Bay Street as he –

A: His description of it is completely erroneous.

He did admit, however, a change in specifications which coincidentally was a change which Sosin said he had suggested to Thomson. Sosin could not have known of this change in specifications if he had never met Thomson, which supports Sosin's version. Sosin, at the hearing, pointed to Thomson and said:

Transcript Vol. 56, page 8309

MR SOSIN: I see a gentleman that fits the description I recall as seeing a man, Mr Thomson, in the job shack.

COMMISSIONER: Well, would you point out the gentleman in the courtroom that you think is Mr Thomson? Can you do that?

WITNESS: Well – the only person in the court that has the same description, as I recall Mr Thomson, is the gentleman over there with the glasses on.

COMMISSIONER: Well, are you able to identify him as the person that you saw in the job shack whom you have identified to us as Mr Thomson?

WITNESS: I don't want to waiver on the point.

COMMISSIONER: I don't want you to, either.

WITNESS: It was a long time ago. I remember a gentleman, tall with glasses, ruddy complexion, and that is what I recall and that gentleman there looks very similar to the one I saw.

Further investigation revealed that, contrary to the evidence of Donaldson and Thomson, there was in fact an additional payment by Northdown to Thomson.

Detective Sergeant E.F. Gibson, one of the Commission investigators, attended at the Northdown office on 8 November 1973 and obtained exhibit 747, which appears as appendix 54; it is a cheque of Northdown to Alex Thomson in the sum of \$17,000 dated 18 May 1973. This was after Donaldson and Thomson had given evidence of no payment whatsoever other than the \$6000 on 19 April 1972.

Thomson explained this payment as a finder's fee for bringing to the attention of Northdown some property adjacent to property which they already owned. He did not know who owned this property or if it was for sale.

Transcript Vol. 36, pages 5498–9

MR MCRAE: What did you do with respect to the land, drive by it? What did you do with respect to the land to earn yourself \$17,000?

MR THOMSON: Initially as I say the bulk of the money was as a finder's fee.

Q: For seeing the land sitting there?

A: For acquainting Northdown with the fact that the land was there and was a prime possibility for development.

Q: If they owned the land across the ravine, surely they knew the land was there before you –

A: Apparently not, sir.

Q: They did not even know it was there?

A: No, sir.

Q: You never did find out who the owner was?

A: As I say, I was not a party to that part of it.

To support this explanation, there was produced an invoice from Alkon

Homes to Northdown in the sum of \$17,000 dated 30 March 1973. The invoice, exhibit 883, appears as appendix 55. When asked about the date, Thomson waived in his reply.

Transcript Vol. 36, page 5522

MR MCRAE: When was this prepared? March 30th?

MR THOMSON: No, it was – as a matter of fact I think that March 30th date, I have been thinking about that – I think that March 30th date may be it should have been April 30th.

Detective L.R. Ormerod of the Commission staff, investigated the invoice, exhibit 883. He found that the rubber stamp which printed Alkon Homes had been manufactured by P.R. Mack and Son of Toronto. A search of their records revealed that it had been ordered on 11 May 1973 and delivered on 15 May 1973. The invoice was, therefore, obviously backdated, and the entire explanation strikes me as contrived.

There was evidence of other payments to Thomson as well, which developed from the 390 Bay Street project. The tenants' installations required Thomson's approval. Thomson had sole authority to approve disbursements up to \$2000 and supervisory control over other installations as well. For example, Thomson, in consultation with the architect, let the contract for the Directory Board to Accurate Engraving Limited in the sum of \$11,629.10, as appears in exhibit 878. Then, he issued purchase orders to Cameo Interiors on behalf of tenants' installations in the sum of \$85,500 as per exhibit 879.

We found that Accurate Engraving Limited had paid Thomson \$2887.50 by cheque dated 25 June 1973, exhibit 880, appendix 56, and that Cameo Interiors had paid Thomson \$4000 by cheque dated 29 June 1973, exhibit 881, appendix 57. Thomson explained that Accurate Engraving dealt with the architect, while the purchase orders which he signed for tenants installations were primarily for record purposes. He admitted receiving \$2887.50 from Accurate and \$4000 from Cameo. His explanation was that the \$2887.50 was a loan of \$3000 from Accurate, the difference of \$112.50 being the price of a camera which he had purchased from Accurate. The \$4000 was a loan from Cameo of that amount. In both cases, the payors were doing business with Thomson's employer.

Donald Smith, a chartered accountant with the firm of Touche Ross who were acting on behalf of the Commission, examined the books of Northdown, Accurate, and Cameo. In Northdown, the \$17,000 payment referred to earlier was first entered in the sundries column, then posted to another account. Smith assessed that entry as follows.

Transcript Vol. 37, page 5542

MR MCRAE: And then there is about five empty lines and then May 31st. It is just Folio D-145 Debit \$17,000, balance at debit balance of \$17,100 because of a carry-down of a previous \$100?

MR SMITH: Yes.

Q: Can you tell us what Pine Meadow Properties Limited –

A: It is – Pine Meadow Properties Limited is a subsidiary of Northdown Drywall and the \$100 represents their cost of the shares in that company; in Pine Meadow Properties Limited.

Q: Were you able to trace and determine if \$17,000 worth of shares were actually exchanged?

A: No. We reviewed the books of Pine Meadow Properties Limited and there was only \$100 worth of shares issued in that company.

Q: Can you explain this posting at all from an accounting point of view?

A: No.

In Accurate, the \$2887.50 payment was again first entered in the sundries column. It was then shown on a loan receivable ledger sheet.

In Cameo, the \$4000 was entered in the job-cost column of the journal and carried through as part of the job cost. Curiously, it was also entered as an account receivable from Alex Thomson. Smith assessed that entry as follows.

Transcript Vol. 37, page 5548

MR MCRAE: Would it normally be posted into the job cost ledger and also into an account as well? Is that normal standard accounting practice?

MR SMITH: No. If the original analysis of the cheque was going to end up in the accounts receivable ledger, it would have been analyzed into the sundries, in the cheque disbursements, and then posted into the accounts receivable ledger.

There was an additional payment from Cameo to Thomson, exhibit 890, appendix 58, a cheque dated 18 December 1972 for \$500. It too was entered in the job-cost column.

The evidence of Sven Ehvert, the construction manager of Y & R Properties Limited, who hired Thomson as project manager, impressed me. He testified that the project manager does have responsibilities in the acceptance of quotations, although the final decision is made by the president. Progress payments are made on the recommendation of the project manager, and the purchase orders for tenants installations require the signature of the project manager. He testified that he had no knowledge that Thomson had received any money from Northdown, Accurate, or Cameo.

Hence, the circumstances of these payments show disbursements in cash, book entries to sales promotion and job-cost, contrived explanations, denial of payments, and irregular transactions. The reasonable inference is that these payments were outright payments to Thomson. The circumstances indicate that each of these payments constituted a corrupt benefit to Thomson given in consideration for the doing of some act relating to the affairs of his principal.

Mel Kurtz

Mel Kurtz was employed as a construction manager with Peel Village Development Limited from 1968 to 1971. Muzzo of Marel Contractors, had several large contracts with Peel Village during the period between 27 February 1968 and 18 February 1971. During that time Marel paid to Kurtz a total of \$19,500 for 'good public relations.'

Kurtz executed promissory notes in the sum of \$13,000 but there was never any intention by anyone to either collect or pay the said notes.

Transcript Vol. 25, page 3511

MR SHEPHERD: Would it be fair to say, Mr Muzzo, in all truth that you did not really intend to collect on the notes?

MR MUZZO: You are right.

Q: And probably Mr Kurtz appreciates you can't testify as to what is in another man's mind, but perhaps you formed the opinion that he didn't really intend to pay them either?

A: Well, I guess that is the way it is.

Muzzo gave the following explanation for the payments.

Transcript Vol. 25, page 3508

MR SHEPHERD: What did he in fact do, if anything, for Marel Contracting? What benefit were you getting from him?

MR MUZZO: Well, I don't know what benefit I was getting. I know we were getting some jobs.

Q: What did he have to do with the jobs?

A: Mr Kurtz was calling all the prices.

Vittorio Giuliani, the president of Giuliani Construction Limited, told of the following plastering contracts with Peel Village Developments Limited: (1) exhibit 654, 5 April 1968, Brampton contract, \$74,000; (2) exhibit 653, 11 April 1969, Don Mills contract, \$194,000; (3) exhibit 652, 10

November 1969, Rambler Road contract, \$47,000; (4) exhibit 651, 14 September 1970, Graydon Hall contract, \$130,000; total, \$445,000.

On 5 September 1969, Giuliani paid Kurtz \$5000 for which Kurtz exchanged his own cheque dated 5 October 1969 to present the appearance of a loan transaction (exhibits 645 and 646, which appear as appendix 59). Giuliani stated that because of a delay on his part in completing the job, he did not cash the Kurtz cheque and, moreover, paid additional money to Kurtz. He made the following payments: (1) as above, \$5000; (2) exhibit 647, 19 February 1970, cheque to Kurtz, \$1000; (3) exhibit 648, 15 April 1970, cheque to Kurtz, \$1000; (4) exhibit 649, 30 June 1971, cheque to Kurtz, \$1000; (5) exhibit 655, 11 August 1971, cheque to Kurtz, \$350; total, \$8350.

These payments, totalling \$8350 were entered in Giuliani's books as payments of commission.

Transcript Vol. 25, page 3563

MR SHEPHERD: Perhaps you could help me with this. I am told that in the books of Giuliani Construction Company Limited all payments to Mr Kurtz are shown as commission. Can you help me as to why that would be?

MR GIULIANI: That is my part and it put like that and left like that because nobody looked after it.

Mel Kurtz told us that while his responsibilities with Peel Village included negotiating contracts with various trades the final awards were made by the president, Charles Watson. He admitted receiving \$19,500 from Marel Contractors and \$8350 from Giuliani Construction. He further explained that although he bestowed no favours, he knew that the donors were of the impression that they were to get preferred treatment. He said that Giuliani attempted to blackmail him by threatening to show the \$5000 cheque, Exhibit 645, to Mr Watson unless he were awarded the second half of a project on which he was then working. Kurtz testified that he revealed these facts to Mr Watson.

Transcript Vol. 25, page 3592

MR SHEPHERD: And then what did you do as a result of this?

MR KURTZ: I can't recall what transpired, but I do recall having a conversation with the president of the company. I can't recall what was said in that conversation, but nothing ever happened after that.

This evidence was contradicted by Watson. It is significant that Kurtz

continued to take money after the alleged blackmail as indicated by Exhibits 647, 648, 649, and 655. Kurtz was not a reliable witness.

Charles Watson was, during the material times, the president of Peel Village Development Limited which employed Kurtz from 1968 to 1971. He testified that Kurtz had never discussed with him the receipt of any payment.

Transcript Vol. 26, page 3622

MR SHEPHERD: Can you assist the Commission by saying anything at all that you know about the receipt of monies by Mr Kurtz or any discussion which he ever had with you about it?

MR WATSON: If Mr Kurtz came to see me, that he had received any monies from any contractor either in the form of a loan or any other basis, I would immediately have asked for his resignation. He would have been fired immediately, within my company.

Q: I take it that it necessarily follows from your answer that he did not have such a discussion with you?

A: To my knowledge, no sir.

He explained that the positions which Kurtz occupied with the company would give him wide authority.

Transcript Vol. 26, page 3626

MR SHEPHERD: What authority if any did Mr Kurtz have, first with respect to the acceptance of tenders and the selection of subcontractors for bids – I should call them contractors, I think?

MR WATSON: I would almost have to say full authority.

Watson relied on Kurtz' recommendations in the letting of contracts.

Transcript Vol. 26, page 3630

MR SHEPHERD: And you are saying I take it, Mr Watson, that Mr Kurtz was in a position to make recommendations to you respecting what contractor of those bids it would be desirable to appoint and you might or you might not –

MR WATSON: Without question and I relied on Mr Kurtz and his back-up.

Again, it is a reasonable inference from the evidence that the payments to Kurtz constituted corrupt benefits given to him in consideration for doing some act relating to the affairs of his principal, Peel Village Development Limited.

James Kurtin

James Kurtin was employed by Village Developments in the capacity of construction superintendent. He sometimes used a firm name called Exact Estimating. Marel Contractors had contracts with Village Developments totalling \$1,131,000. Marel made payments to Kurtin from 28 September 1970 to 22 May 1973 totalling \$8500 in response to requests by Kurtin for financial assistance.

Transcript Vol. 25, page 3520

MR SHEPHERD: How were these amounts arrived at? That is when you paid him say \$2000? How did you and he come to agree that \$2000 was what you should pay him? The invoices don't seem to assist us in every case.

MR MUZZO: He would come in and say I am having a little financial trouble. Can you assist me.

Q: And then you would get an invoice either before or after; is that correct?

A: Yes.

Q: And you would give him a cheque?

A: Yes.

Muzzo recognized that it was Kurtin's position with Village Developments that enabled him to obtain these payments. Village Developments knew nothing of these payments made to one of their employees. Muzzo explained that Kurtin's assistance to him resulted from service beyond the call of duty.

Transcript Vol. 25, pages 3523-4

MR SHEPHERD: In any event he was working for a company with which you were dealing in contracts totalling \$1,131,000 in that period, and you paid him \$8500, and your explanation is that he went beyond what might normally have been expected of him as an employee of Village Developers Limited in respect of the work for which he was responsible and that you benefitted by his excessive zeal, as it were. That is substantially it?

MR MUZZO: That is correct.

In any event, Muzzo understood that Kurtin's assistance would be helpful to him.

Transcript Vol. 25, page 3527

COMMISSIONER: And I am suggesting that that help would put you in a preferred position, vis-à-vis the other contractors that would be competing against you?

MR MUZZO: I guess that could be it.

Ed DelMedico of Gem-Campbell Limited told of several contracts with Village Developments totalling about \$100,000 and payments to Kurtin: exhibit 656 dated 9 February 1968 is a cheque in the sum of \$2000 payable to M.J. Carscadden, the maiden name of Kurtin's wife; exhibit 657 dated 9 June 1970 is a cheque for \$300 to J. Carricdon, which was also given to Kurtin (the name was admittedly misspelled); exhibit 658 dated 25 October 1972 is a cheque for \$500 payable to Exact Estimating, Kurtin's company. DelMedico explained that he made these payments to Kurtin because he expedited the work.

James W. Kurtin gave evidence that he was employed on a full-time basis as general construction supervisor for Village Developments. He used the name of Exact Estimating for outside work or moonlighting. He admitted receiving payments from companies who were working on contracts with his employer. He explained that in the case of Marel he helped generally by expediting and co-ordinating the work. There was no explanation for the payments being made in his wife's name. He acknowledged that his employer was not aware of these payments.

Transcript Vol. 25, pages 3611-12

MR SHEPHERD: You did go to your employer, Mr Davidson, when we first spoke to you some months ago and you did make full explanation, did you not?

MR KURTIN: Yes sir.

MR SHEPHERD: I thank you.

COMMISSIONER: But he didn't know about it before that?

WITNESS: I don't think so.

Roger Davidson, the president of Village Developments Limited, indicated that Kurtin could be of some benefit to Marel.

Transcript Vol. 25, pages 3531-2

MR DAVIDSON: I think there are two questions. On the tendering process, I do not think Mr Kurtin was in a position to do anybody any favours, quite frankly. I suppose, as Mr Muzzo described at the job-site, he was then in a position to make sure that a trade, from the trade standpoint, which may not necessarily, you know, from the trade standpoint he could ensure that the work of the trade occurred on an even-flow basis, yes.

The evidence leads to the inference that these payments to Kurtin constituted an improper benefit given in consideration for the doing of some act relating to the affairs of his principal, Village Developments.

Tom Popov

Tom Popov held the position of vice-president of Kaneff Construction Limited. Romano DeMarco was the president of D.M.D. Triangle (the owners being DeMarco, Milani, and DiCenso) who carried on a lathing and acoustic tile business.

D.M.D. Triangle had the following contracts with Kaneff Construction for which payments were made to Popov as indicated.

1 / Contract (\$50,000), exhibit 667, dated 7 July 1970, Westdale Apartments. Payment, cheque exhibit 666 dated 17 September 1971, provided \$1000 cash which was paid to Popov, who admitted negotiating the contract and receiving the payment.

Transcript Vol. 28, page 3865

MR MCRAE: I think you told me a little earlier that this thousand dollars, represented by the cheque of September 17th of '71, could have referred to the contract, exhibit 667?

MR POPOV: It could have.

2 / Contract (\$68,500), exhibit 669, dated 21 October 1970, Mississauga Tower. Payment, cheque exhibit 668 dated 10 November 1971, provided \$1000 cash which was paid to Popov who admitted negotiating the contract and receiving the money in consideration thereof.

Transcript Vol. 28, page 3870

MR MCRAE: Is there any connection between this gift of \$1000, represented by exhibit 668, and the contracts of the Mississauga Towers?

MR POPOV: When I was presented with the gift I was told it was because of the Mississauga Towers.

3 / Contract (\$66,500), exhibit 671, dated 28 December 1970, Kennedy Towers. Payment, cheque exhibit 670 dated 17 December 1971, provided \$1000 cash which was paid to Popov who admitted negotiating the contract and receiving the money.

Transcript Vol. 28, page 3873

MR MCRAE: We have heard evidence that the thousand dollar proceeds from the cheque, exhibit 670, was paid to you with respect to that contract. What do you say about that?

MR POPOV: That's what I was told. It was for a gift.

4 / Contract (\$39,500), exhibit 673, dated 26 October 1971, Nelson and

Dundas. Payment, three cheques, exhibits 672, dated 27 September 1972, provided \$2000 in cash from which the sum of \$700 was paid to Popov who acknowledged the contract and the receipt of the money.

It appeared that in each case, the amount was agreed upon by the parties when the contract was negotiated and was paid to Popov when requested.

Transcript Vol. 28, page 3827

COMMISSIONER: The amount of money had been agreed upon in the first instance when the contract was negotiated?

MR DIMARCO: Yes.

COMMISSIONER: Then he asked for payment and you brought him the money to the restaurant?

WITNESS: Yes.

Vittorio Milani and Domenic DiCenso, the other partners of D.M.D., both confirmed the nature and purpose of these payments.

Edward DelMedico, the owner of Gem-Campbell Limited, told of negotiating a tile and terrazzo contract for a building in Hamilton, for which he agreed to pay Popov \$500.

Transcript Vol. 28, pages 3845-6

MR MCRAE: Thank you. You are producing a contract, sir, dated March the 8th, 1967 on the Beverley Hills Apartments, Hamilton, calling for the terrazzo, vinyl and ceramic tilework at a 281-suite apartment building, the total amount of the contract was \$42,500, is that correct?

MR DELMEDICO: It was negotiated down to that amount, yes.

This contract is entered in the hearings as exhibit 677.

Transcript Vol. 28, page 3847

MR DELMEDICO: I made an offer to Mr Popov at the time I started negotiating the job that if I got the job and he called prices, in the way of putting my job up in the eyes of the owner, that we are reliable and to do the job and fit to do this job, I was going to give him a \$500 cheque.

Ignat Kaneff, the owner of Kaneff Construction Company, gave evidence. Popov was employed by Kaneff as supervisor and negotiated the contracts. Popov also had a small financial interest in the company. Kaneff had no knowledge of the cash payments made to Popov.

Transcript Vol. 28, page 3855

MR MCRAE: Did you have any knowledge that Mr Popov was receiving cash payments from D.M.D. Triangle?

MR KANEFF: If I had the knowledge, he would be fired on the spot.

Indeed, Kaneff's ignorance of the payments was acknowledged by Popov.

Transcript Vol. 28, page 3877

MR MCRAE: Did Mr Kaneff know about the payments that were made by –

MR POPOV: No.

Q: DiMarco?

A: No.

Q: And DiCenso to you?

A: No.

Q: Did your other partners in Masterol or Kaneff Developments know?

A: No.

Tom Popov explained that Kaneff had the last word on the awarding of contracts, but admitted that Kaneff relied on him.

Transcript. Vol. 28, page 3862

MR MCRAE: And he accepted your word on that? That that was the best price you could get?

MR POPOV: Yes. In some instances –

Transcript Vol. 28, pages 3880–1

COMMISSIONER: In most cases he acted on your recommendation?

MR POPOV: Yes.

The obvious inference from the circumstances, is that each of these payments constituted a corrupt benefit given in consideration for doing some act relating to the affairs of the principal.

Robert Naish

Robert Naish was employed by V.K. Mason Construction Limited as a project estimator on the Commerce Court building. A subcontract was awarded to A.V. Hallam Lathing and Plastering Limited for \$80,000. In addition, they obtained contracts from tenants for interior installations which came to \$200,000.

Naish acknowledged receiving payments from Hallam from 10 August 1971 to 11 January 1973, totalling \$8000. He gave the following explanation.

Transcript Vol. 28, pages 3894–5

MR SHEPHERD: What did you do for the A.V. Hallam Lathing and Plastering Company Limited, Mr Naish, in return for which these monies were paid to you?

MR NAISH: I informed them of what range or what mark they had to be to in order to be low bidder on a particular project, and in checking them again back to the quantity business, sometimes they were out of line, and just giving them my idea, my guide as to where they should be sometimes.

MR SHEPHERD: I take it that in giving information respecting the bids and respecting quantities you gave it only to Hallam?

MR NAISH: Yes, sir.

Q: And in return for that, they paid you monies?

A: Yes, sir.

Brian Holden, the President of A.V. Hallam Lathing and Plastering Company Limited, with whom the arrangements had been made, admitted the payments as described. His explanation was simply that he wanted the work.

Transcript Vol. 28, pages 3899–3900

MR SHEPHERD: The tenant work would be desirable work to have?

MR HOLDEN: Exactly.

Q: I really thought that if you wish to make any comment respecting why you made payments to the employee of Mason Kiewit for information respecting the bids you had to meet and the information relating to quantities which he had prepared for his employer, that this was your chance to say anything you might wish to say about that. For example, whether you had any doubt about the propriety of doing such a thing?

MR HOLDEN: I wanted to get the work.

It is a reasonable inference from the circumstances that the payment to Naish of \$8000 constituted a corrupt benefit to him.

Domenic Rossi

Domenic Rossi was employed as construction manager with Imperial General Properties Limited, who carried on business as an owner-builder. In that capacity, he awarded several contracts and received payments from the other parties involved.

Northwest Plastering Limited carried on a plastering business. The owners, Vittore Contatto and Mario Toneguzzo, and the manager, Ross

McKenzie, gave evidence. Exhibit 691 is a contract between Imperial General and Northwest Plastering dated 17 September 1970 for \$64,500. Exhibit 690 is a cheque of Northwest Plastering dated 8 October 1970 in the sum of \$1000, the proceeds of which were given to Rossi by Toneguzzo. Ross McKenzie described it as a gift for public relations, but Toneguzzo explained that it was to show gratitude for the contract.

Transcript Vol. 28, pages 3954–5

MR MCRAE: Did it have any connection with this contract, exhibit 691? Well are you showing your gratitude for getting the contract?

MR TONEGUZZO: Yes.

Exhibit 693 is a contract between Imperial General and Northwest Plastering dated 3 February 1972 for \$137,000. Exhibit 692 is a cheque of Northwest Plastering dated 10 August 1972 in the sum of \$1000, the proceeds of which was given to Rossi by McKenzie. Again, Toneguzzo explained that it was given in gratitude for that contract.

Transcript Vol. 28, page 3957

MR MCRAE: Now what do you say about the payment of that money? Was it given in gratitude for that contract?

MR TONEGUZZO: Yes.

Exhibit 695 is a contract between Imperial General and Northwest dated 3 October 1973 for \$138,000. Exhibit 694 is a cheque of Northwest Plastering dated 13 February 1973 in the sum of \$1000, the proceeds of which was given to Rossi by Toneguzzo. Rossi admitted being paid \$1500 cash on or about 5 August 1970 by Adena Forming Company, in appreciation for awarding them a \$157,000 contract in Burlington.

Leslie Walker, president of Adena, said that he gave the money to assure regular payments on his contract, but he did not disclose the Rossi payment to Imperial General.

Transcript Vol. 30, pages 4271–2

COMMISSIONER: Well, Mr Walker –

MR WALKER: Yes sir.

Q: – you didn't tell Imperial General Properties that you were paying their superintendent, did you?

A: No, I did not; no sir.

Q: And did you consider that it was proper for you to be making payments to

an employee of another company with which you were in contractual relationship?

A: At the time I didn't; you know, I really didn't think of it as being anything wrong. My intent was, as long as I got my cheque, like, I was giving him something. If I was wrong, then I'm afraid –

There were a number of large deposits of cash in Rossi's bank account, and when questioned about them he gave various explanations. He accounted for several of the large deposits but for the others his explanation of gambling junkets was rather dubious. In short, there is no doubt about the specific payments by Northwest and Adena, and there may have been others.

The reasonable inference from the circumstances of these payments is that they constituted a corrupt benefit given in consideration for awarding the contracts which related to the business of Rossi's principal, Imperial General.

Carl Daploga

Ross McKenzie, on behalf of M-C United Masonry also gave evidence of a \$500 Eatons gift certificate given to Carl Daploga in December 1972. At that time Daploga was employed as a superintendent with Kuhl Construction Ltd., M-C United Masonry was engaged in carrying out work on behalf of Kuhl Construction. The consideration for this gift was, according to McKenzie, the assistance by Daploga on the job-site. This gift to Daploga was improper and differed from the other similar payments only in size.

John Micore

John Micore was employed by Comtel Construction Company as a construction superintendent. A drywall contract was awarded by that company to Empire Lathing.

Mario Palma, the president of Empire Lathing drew \$1000 by cheque (exhibit 706) dated 16 December 1971 and entered it in the ledger as advertising expense. He stated that he gave \$200 from the proceeds of that cheque to Micore for his co-operation during the job. He gave \$300 to the superintendent of another job at Weston Road and Finch. He can only remember the first name of this superintendent as Marcel.

Palma justified himself as having paid for co-operation.

Transcript Vol. 29, page 4040

MR MCRAE: Why did you pay \$200 or \$300 only at those times?

MR PALMA: Those are the first jobs I started doing drywall, big jobs, and I was kind of green in the drywall field and naturally there happened to be a few mistakes here and there and if you have a super who gives you a hand –

MR MCRAE: If you have a super who gives you a hand –

WITNESS: If you have a super, if he wants to be bad, he could create a problem. He could. So if he does not create problems for you, so that is the reason that I thought to give him \$200 or \$300.

The payment to Micore is different from other similar payments only in size.

Payments by Yorkland Drywall and Fanelli Lathing

Yorkland Drywall and Fanelli Lathing are two related companies who share common business premises and overhead expenses. The owners, Marco DeLuca, Giovanni Pasta, Mario Gasbarro, and Stan Weiman, gave evidence regarding the following cheques: (1) Yorkland, exhibit 708, dated 20 June 1969 to 'Cash,' \$1000, entered in the books of the company as sales promotion; (2) Yorkland, exhibit 710, dated 28 July 1970, to 'Cash,' \$1000, entered in the books of the company as sales promotion; (3) Fanelli, exhibit 711, dated August 1971, to 'cash,' \$1000, entered in the books of the company as business promotion.

They were unable to give a satisfactory explanation for making available the said sums of money in cash. The bookkeeper, Mrs Marie Moskatov, said that she did not know what the money was for. She was told to charge it to sales promotion.

Transcript Vol. 29, page 4093

MR MCRAE: Nobody told you what the money would be used for?

MRS MOSKATOV: No, I would ask the office manager, if he asked me to make it out, I would have asked him, you know, what to charge it to. That is the one question I would ask. I would never ask him what it was for.

COMMISSIONER: Would it not be the same thing, what to charge it to and what it was for?

WITNESS: I mean what it would be used for.

COMMISSIONER: I would have thought it would be the same thing, if you are asked to charge it to something, that would be what it was for.

WITNESS: I guess you are right.

Louis Gasbarre seemed to be the office manager. He said that the entries for business promotion were made after checking with the principals of the firms.

There was no evidence of the details of the disbursement of this money. The entries for sales and business promotion do not disclose the nature of the transactions. The most that can be said at this time is that the circumstances do arouse suspicions.

David Willoughby

David Willoughby was employed by Bramalea Consolidated Developments Limited as a general superintendent on projects. In the course of his employment, he participated in awarding construction contracts. Downsview Lathing was awarded contracts in the sum of \$500,000. Rise Forming Limited was awarded contracts totalling \$697,930.

Donato Tullio, one of the owners of Downsview Lathing, told of payments to Willoughby amounting to \$2000 and explained that they were for assistance given to him in the preparation of estimates. \$1000 was paid by cheque dated 21 December 1971, payable to 'cash,' and \$1000 was paid by cheque dated April 1972, payable to Willoughby's wife. The books of the company show the disbursements as charges to advertising which were later changed to a loan to shareholders. When questioned by Detective Sergeant Gibson of the Commission staff, Tullio explained that it was paid because Willoughby had recommended him to other contractors. Detective Sergeant Gibson spoke to the owners of Downsview Lathing, Danilo and Tony Tullio, on 19 July 1973. At that time, Tony Tullio explained that they had solicited Willoughby's help to get the job.

Transcript Vol. 30, page 4240

MR GIBSON: I asked, why would he endorse this, meaning the cheque?

MR SHEPHERD: Yes.

A: Tony Tullio had been talking on the telephone in the same room. He hung up the telephone and he said, we were bidding on a job and we asked him, meaning Willoughby, to put a good word in with the contractor for us. We wanted that job pretty bad. Danny said, you know this fellow asked about this cheque only a few weeks ago. He was worried that it might get him into trouble now there is an investigation.

Tullio later, on 18 October 1973, changed his explanation. The money was now paid for estimating, but he was unable to produce any supporting material.

Transcript Vol. 30, pages 4241-2

MR SHEPHERD: Did either of the Tullios at any subsequent time give you any different account?

MR GIBSON: Yes, they did.

Q: And when was this, approximately?

A: On the 18th of October I again attended at the Downsview Lathing Company offices in Downsview and I was examining another cheque and also some other records. I spoke about Willoughby and I had just spoken about – that we had conducted further investigations and had uncovered contracts which had supported some of the things that they had said to me earlier. Tony then said we did not give him the money to get these jobs. He said they already had the jobs and Tony related that Willoughby had apparently done estimating for them.

I questioned regarding this estimating, especially that there should be files with Willoughby's writing, seeing as how he would have done this estimating. Danny made a search of the files and he did not produce any. Then he informed me that Willoughby was just really teaching him to do estimating so Danny Tullio would have done the writing and probably Willoughby would not have written any thing. In any event, I did not receive any estimating files.

Domenic Cipriani, president of Riseforming Limited, confirmed the payment to Willoughby of \$8000. Cheques dated 21 May 1971, and 4 June 1971 (exhibit 737 and exhibit 738), each in the sum of \$4000, were cashed by the bookkeeper and the proceeds were paid to Willoughby. Cipriani stated that Willoughby had spoken to him of his financial difficulties to which he responded with a gift of \$8000 in cash. Apparently, these payments were charged in the books of Riseforming Limited to the purchase of lumber.

Cipriani told of an additional six cheques in 1972 and 1973 totalling \$8000. These cheques were originally charged to business promotion in the books of the company and then on 23 September 1973 the entries were changed to reflect a loan. Cipriani stated that the money was for his own personal use.

David Willoughby admitted receiving the payments of \$2000 from Downsview and \$8000 from Riseforming. He gave the following explanation for the Downsview payment.

Transcript Vol. 29, pages 4126–7

MR WILLOUGHBY: They had offered me the two sets of money before and I had not accepted it at the first because of the implications.

MR SHEPHERD: About how long a time before you actually took the first payment would they have offered it?

A: I don't know, a week or a couple of weeks, not too long.

Q: You must surely, Mr Willoughby, have had many reservations about the wisdom of accepting?

A: I have been in construction all my life. I have run, over a period of 15 months, I ran an outside project of \$53 million, completing a building for Olympia and York, and I never took no more than a lunch. I do realize the implications. I know what it looks like.

Q: Yes.

A: They were not bribes, but I did take them and I know what they look like, but that is the sum total of it.

Q: All right, Mr Willoughby, that is your explanation.

As to the Riseforming payment, he gave the following explanation.

Transcript Vol. 29, page 4132

MR WILLOUGHBY: Going over some of the jobs with Domenic and different types of things like this, and there came a time when Domenic said he would like to give me a gift and once again I did realize the implications, but I had had a fair monetary setback earlier on and the gift was very acceptable and I took it.

The reasonable inference from the circumstances of these payments is that they constituted improper benefits given in consideration for the awarding of contracts and other benefits which related to the business of Willoughby's employer.

Goldie & Burgess, and Hanks & Johnston

John Goldie and Peter L. Burgess carried on business as construction managers and general contractors under the name of Goldie-Burgess Limited. In 1970 they acted as construction managers for Manufacturers Life Insurance Company in the construction of a large building in Toronto. The concrete forming contract for that project was awarded to Structform (Central) Limited, by letter of intent dated 6 February 1970 (exhibit 975, appendix 60).

Shahid Minto, a chartered accountant with Touche Ross, gave evidence which showed that Structform (Central) Limited, paid Calladine and Baldry Limited, travel agents on 26 January 1971 \$1016.25 to be credited to P. Burgess, and \$1012.50 to be credited to J. Goldie. On 25 October 1972, \$2000 was paid to be credited to both Burgess and Goldie, and on 3 July 1973, \$576.68 was paid for Goldie. These payments were shown in the promotion account of the books of Structform.

John Goldie acknowledged that he and Burgess participated in the negotiations with Structform which resulted in the contract for cost plus a

fixed fee of \$220,000 with a maximum construction price of \$2,438,501. He admitted that they would be influential in the awarding of the contract and also in subsequent decisions relating thereto.

Transcript Vol. 46, pages 6682–3

MR MCRAE: But you and Mr Burgess would be very influential in deciding which contractor were accepted for the job?

MR GOLDIE: I can't say 'very,' no. We would be influential but not very. If I might say, the owner played a very large role in the decision-making processes here.

COMMISSIONER: You would be influential in the original decision as to who would do the work and I take it you would also be influential in the subsequent decisions as to how the work was to be done and the fair price and so on?

WITNESS: Yes, sir. I could –

He acknowledged accepting the payments to the travel agent totalling \$2590.18, which had been arranged by Walter Zanussi, a partner and office manager of Structform, for his personal use. His principal, Manufacturers Life, were not informed of this benefit.

Transcript Vol. 46, page 6694

MR MCRAE: Now, did you tell the people you were representing, Manufacturers' Life Insurance Company, that Mr Zanussi or his companies had made these gifts to you?

MR GOLDIE: No, I did not.

The gifts resulted from their business relationship.

Transcript Vol. 46, pages 6696–7

COMMISSIONER: You are not suggesting, are you Mr Goldie, that these gifts would have been made to you if it were not for the relationship arising through the business that you were doing?

MR GOLDIE: I'm sorry, sir, I don't fully understand.

COMMISSIONER: You are not suggesting that the gifts would have been made to you were it not for the business relationship which existed between you?

WITNESS: No, sir, I am not suggesting any such thing.

MR MCRAE: Were you close personal friends?

A: No, sir.

Q: Did you visit his house?

A: No, sir, I have no idea where he lives.

COMMISSIONER: What he has in fact said is that these gifts do arise from the business relationship.

WITNESS: Yes, sir.

He recognized that in his position he should not have accepted the gift.

Transcript Vol. 46, page 6708

MR CADSBY: Would you agree with me that your acceptance of the gift was one of lacking in discretion?

MR GOLDIE: My hindsight is perfect, sir, and I realize that it was a stupid, foolish thing for us to have ever done. I have never done anything like it before, I can assure you, and never will again.

Peter Burgess also gave evidence. He too acknowledged the payments to the travel agent on his behalf amounting to \$2016.25 which he used for personal benefit. He did not inform his principal of the receipt of this benefit which arose from his business relationship.

Transcript Vol. 46, page 6719

MR MCRAE: Did you tell Manufacturers Life Insurance Company you had accepted these gifts from Mr Zanussi's companies?

MR BURGESS: No, sir, I did not.

Q: You say that you were not that much in contact with Mr Zanussi personally?

A: That is correct.

Q: Was he a close friend or a personal friend?

A: No, he is not.

Q: Your relationship is strictly a business relationship?

A: Yes.

Q: And it was because of your business relationship that these gifts were made, as far as you were concerned?

A: Yes, sir.

He too realized that it was wrong.

Transcript Vol. 46, page 6726

MR CADSBY: How do you feel now about your acceptance of gifts?

MR BURGESS: I guess like everybody, I've made a few mistakes in my life but I guess this is the worst one.

Q: Do you feel that you have been dishonest in any way?

A: No, sir, I have not been dishonest – not in any way; just stupid.

Leonard W. Hanks and Alexander Johnston were both employed by Canada Square Corporation. Hanks as vice-president in charge of field operations, and Johnston as vice-president in charge of construction. They were both consulted in the awarding of contracts.

On 30 September 1970, Structform was awarded a contract for \$674,750 (exhibit 974). During the course of construction, both Hanks and Johnston would make value judgments which could affect the margin of profit of Structform.

Hanks testified as follows:

Transcript Vol. 46, pages 6741-2

COMMISSIONER: Mr Hanks, in your capacity as project manager, the decisions made by you from day to day could either result in greater or lesser expenditures by subcontractors?

MR HANDS: Yes, Your Honour. These are scrutinized at the meetings by the president and other members of the company.

COMMISSIONER: But in many cases they are really value judgments that are made as the situation arises?

WITNESS: That is right, Your Honour.

Johnston testified as follows:

Transcript Vol. 46, page 6753

COMMISSIONER: Did the company know about these gifts?

MR JOHNSTON: Not at the time, sir.

COMMISSIONER: When did they find out?

WITNESS: After the inquiry or after being notified there was going to be an inquiry which is a week or ten days ago.

Shahid Minto, of Touche Ross, gave evidence which showed that Structform on 25 November 1971 paid to Calladine and Baldry \$2400 to be credited to Hanks and Johnston. This disbursement was shown in the books of Structform as a promotion item.

Hanks and Johnston acknowledged that they had accepted this personal benefit which arose from their business relationship without informing their principal. Hanks testified as follows:

Transcript Vol. 46, page 6740

MR MCRAE: Did you inform the company you worked for or the president of the company you worked for about receiving this gift from Mr Zanussi or Mr Zanussi's company?

MR HANKS: Not at the time.

Q: Did you after you received it and before you were interviewed by investigators for the Commission?

A: Yes.

Q: When did you inform Mr Moog?

A: Personally not. I didn't inform Mr Moog, no.

Q: No?

A: The information was passed on to Mr Moog.

Q: When was that passed on to him?

A: I would say approximately two weeks ago.

An associated company of Structform paid \$788.06 for windows supplied to Johnston's house so that Johnston received benefits totalling \$1988.06.

Walter Zanussi gave evidence. He was the office manager and part owner of a group of companies including Structform (Central) Limited of which he owned 25 per cent. He acknowledged that Burgess and Goldie were the key people in negotiating the contracts with Manufacturers Life.

Transcript Vol. 47, page 6763

MR MCRAE: But Mr Goldie and Mr Burgess were in charge of the construction?

BY MR ZANUSSI: Yes.

Q: They were construction managers? Would they be key people in reaching the agreement for the contract?

A: I don't know their internal set-up, but we related to them, yes. We also had discussions with the Manufacturers' people along with Goldie and Burgess. If they are key people, I suppose they are key, yes.

He admitted the payments to Calladine and Baldry on behalf of Burgess and Goldie which he said was in appreciation for their business.

Transcript Vol. 47, pages 6766-7

MR MCRAE: Would you tell us why you and your company or your companies paid a total of \$2590.18 for trips for Mr Goldie starting in 1971 through to 1973; and I may as well deal with Mr Burgess too, a total of \$2016.25 for trips for Mr Burgess during approximately the same period.

MR ZANUSSI: In appreciation for the way they conducted themselves; in gratitude for having done business with such intelligent, proper, excellent people.

He told of his contracts with Canada Square Corporation and the co-operation that he had received from Hanks and Johnston. He admitted the payments to Calladine and Baldry on behalf of Hanks and Johnston and the payment for Johnston's windows which he charged to public relations. He did not inform Canada Square Corporation of these payments.

It would be reasonable to infer from the circumstances of the payments on behalf of Goldie, Burgess, Hanks, and Johnston, that they constituted improper benefits given in consideration of doing some act relating to the affairs of their principals. Goldie and Burgess had the grace to acknowledge their mistakes. Hanks and Johnston did not seem too happy about their conduct either. Zanussi, on the other hand, was arrogant and could see nothing wrong.

Transcript Vol. 47, pages 6766-7

COMMISSIONER: Don't you consider it wrong for you to be giving gifts to somebody else's employees?

MR ZANUSSI: Sir, I don't consider it wrong, because -

COMMISSIONER: You don't?

WITNESS: No, I don't

COMMISSIONER: Then you and I have a different concept of business responsibility.

WITNESS: Excuse me, sir, but I feel this, that these people were the best people that we have dealt with.

COMMISSIONER: Did you tell their principals that you were giving these gifts to them?

WITNESS: No, we did not.

COMMISSIONER: Well, that is what is wrong.

WITNESS: Perhaps.

The evidence indicates that Goldie, Burgess, Hanks, and Johnston would not have become involved if they had not been tempted by Zanussi. Zanussi very cleverly made the arrangements with the travel agent so that when they were informed of a holiday opportunity, it was hard to refuse. They reacted impulsively.

In this chapter I have reported on a number of incidents of payments and have indicated inferences that may be drawn. Again, I consider it to be the responsibility of the law enforcement agencies to determine what further proceedings should be taken in the light of the evidence available in each instance.

4

Other activities

COMPANIES

Organized crime

The meeting which took place in the Mona Lisa Restaurant in the spring of 1971 introduced to the lathing and drywall sector of the construction industry a new element. It was at that fateful meeting that Cesido Romanelli and Angelo DelZotto took steps that resulted in the hiring of escorts. The chapter on violence described an attempted telephone call from the restaurant, after which Angelo DelZotto gave Romanelli the name of a man to contact. According to Simone, Romanelli did in fact make the contact. Following that contact, a sinister array of characters was introduced to this sector of the industry.

Natale Luppino of Hamilton was hired by Romanelli in May 1971. He had no previous experience in the construction industry. He had the following criminal record.

Transcript Vol. 13, page 1612

MR SHEPHERD: Yes. Now, you have been convicted of some criminal offences, have you not?

MR LUPPINO: Yes.

Q: Were you, on the 19th of February, 1962, at Hamilton, convicted of fraud and placed on suspended sentence for a year and probation? Is that correct?

A: Yes.

Q: On the 19th of June 1962, were you convicted at Hamilton of assault occasioning actual bodily harm and sentenced to 12 months?

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A: Yes, sir.

Q: Then you were released on parole, I suggest, on the 26th of January, 1963. Is that correct?

A: It could be. If you have it there.

Q: Yes. Were you convicted in the United States on December 1st, 1964, of an attempt to obtain money under false pretences and conspiracy and sentenced to six months?

A: Yes, I think so, if that's there. I don't remember exactly.

Q: Yes. Was that in Delaware?

A: Right.

Q: Then, on the 10th of January, 1968 – now this is a petty disposition. Well, I'll put it in. Were you convicted of possession of an offensive weapon, \$100 fine?

A: Yes.

Q: That's the whole of the record, is it not?

A: If that's what you got there, yes.

Luppino's criminal record appears as exhibit 1087, appendix 63, and his photograph as Figure 17, exhibit 1062, appendix 77.

Both Luppino and Romanelli gave what appeared to me to be a contrived explanation of how he was hired. They explained that Luppino, who had no previous experience in the construction field, went to a construction job site in Hamilton to look for a job and there, as luck would have it, met Romanelli. He was hired at \$150 per week and expenses and supplied with a company car. His only duty, however, was to escort Romanelli, and thereafter he was Romanelli's constant companion.

Luppino acknowledged that he and Paul Volpe were well known to each other.

Transcript Vol. 13, page 1632

MR SHEPHERD: Did you know Paul Volpe before you went to work for Durable Drywall?

MR LUPPINO: Sure I know Paul Volpe since I come here.

Q: When did you first meet him?

A: When I come here, I don't remember, could be – geez, 10 years.

Q: How often did you see him?

A: I see him an awful lot of times, he comes to my house, baptized my son and he come my house, I go his house. I see him all the time.

Q: And that has been so for about the last 10 years?

A: Yes.



Figure 17 (appendix 77 exhibit 1062)
Natale Luppino

Joseph Bagnato of Toronto had been a professional boxer for twenty years. On the advice of Romanelli, he was hired by Simone as a business agent for Local 562. Simone and Bagnato worked together for a time but later Bagnato was able to work alone or with others. Bagnato described his duties as follows:

Transcript Vol. 7, page 609

MR SHEPHERD: What were you employed as?

MR BAGNATO: I was employed – the way it was explained to me – as a drywall organizer. He said there is a lot of men out in the field not signed up – he called them gypsies – they went from one job to another, and we had to organize them and he said you stay with me for the first couple of months and go out with me every day.

Q: Did you do that?

A: Yes.

He acknowledged that Paul Volpe was instrumental in bringing about his employment with Local 562.

Transcript Vol. 7, page 608

MR SHEPHERD: Then what was the next thing that you did to help you get this job?

MR BAGNATO: I was downtown – well, I did not do this to help me get the job but I just happened to be downtown one day and I was getting my car washed and I saw Paul Volpe – I have known him since he was a baby, he used to box for me too – he asked me what is happening and what is going on and I cried to him too and I told him I went to see Mr Simone and I may get a job and he said well, that is good, maybe I can help.

His services were terminated after the shooting and bombing incidents of July 1972.

Transcript Vol. 7, page 616

MR SHEPHERD: Mr Simone, Mr Bagnato, spoke very highly of your work but in August I think it was – was it in August of 1972?

MR BAGNATO: Yes, the end of August.

Q: He ended your employment?

A: That is right.

Q: How did this come to pass? What did he say?

A: He did not say anything to me. Mr Ballantyne did the job. He said, I have some news for you and he stayed behind the counter and said I am going to tell you from down here.

Q: Ballantyne hid behind the counter?

A: Yes.

Q: And what did he tell you then?

A: He said, 'You are through.'

Q: Yes.

A: So I said, 'Well, what happened?' you know. 'Well,' he said, 'the way Gus explained it there was trouble with the contractor and trouble with 97 and the lawyers are eating up all the money'; and that was it.

Domenic Joseph Zappia of Ottawa was hired by Romanelli in the summer of 1971. He was paid \$195 per week and expenses. He had a sketchy work record with no previous construction experience. Again, the explanation by both Zappia and Romanelli of the circumstances of his employment

was contrived and unbelievable. Zappia was, in fact, an old friend of the Luppino family.

Transcript Vol. 13, pages 1501–2

MR SHEPHERD: When did you first meet Natale Luppino?

MR ZAPPIA: When I first meet?

Q: Yes?

A: Well when he first came to Ottawa with Mr Romanelli.

Q: About when would that be?

A: Well sometime in August.

Q: Did you know him before Mr Romanelli hired you?

A: Well I knew him, yea, but I hadn't met him too often. I knew the father.

Q: How did you come to meet Natale Luppino before Romanelli came to Ottawa?

A: Well I met him once or twice maybe at weddings. Once or twice anyway.

Q: You knew his father from Hamilton?

A: Right. I knew his father.

Q: How long had you known him?

A: Well I knew him before you know.

Q: Some considerable time?

A: Yes.

Q: How did you come to know him?

A: I knew because he was a friend of my father's you know back in Italy.

Q: I see. Did you know Jim Luppino, Natale Luppino's brother?

A: Well I didn't know him very much.

Q: But you knew him?

A: Yes.

He was also an old friend of **Paul Violi** of Montreal.

Transcript Vol. 13, page 1504

MR SHEPHERD: Did you know Paul Violi from Montreal?

MR ZAPPIA: Yes.

Q: When did you meet him?

A: Oh, I met him a long time ago.

Q: Known him for some years, had you?

A: Right.

Luppino's evidence that he was surprised to see Zappia working for



Figure 18 (appendix 64 exhibit 1063)
Joseph Zappia

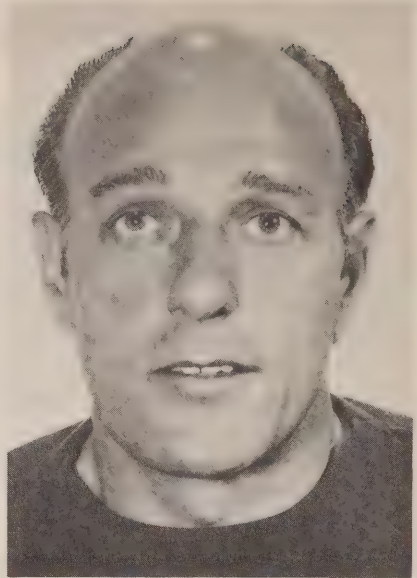


Figure 19 (appendix 67 exhibit 1064)
Paul Volpe

Romanelli in Ottawa is not acceptable in view of Fior's evidence that Luppino had introduced Zappia to Romanelli.

Transcript Vol. 18, page 2369

MR SHEPHERD: Who introduced Mr Joe Zappia to the company?

MR FIOR: I believe was Mr Luppino.

Q: Yes. And where did this occur?

A: Well, Mr Romanelli told me that it was Mr Luppino that introduced Joe Zappia. I don't know because I met Joe Zappia after Mr Romanelli and Luppino went out to Ottawa.

Zappia's photograph appears as Figure 18, exhibit 1063, appendix 64.

Paul Volpe gave evidence. He did not have an occupation nor a bank account and filed with the Commission a most unusual net worth statement (exhibit 660, appendix 65) which indicated as his only asset cash in the sum of \$55,500. He had a criminal record, exhibit 391, appendix 66, and his photograph appears as Figure 19, exhibit 1064, appendix 67. He stated that he met Romanelli about four years earlier but began to see him rather

frequently about two and a half years earlier which would be in the spring of 1971. The evidence indicated that he became a frequent visitor to Romanelli's offices where he appeared to make himself quite at home. The company did some work at his house for which the invoice, exhibit 490, in the sum of \$2600, was forwarded much later and, when Volpe gave evidence in October 1973, it had not been paid.

The association between Volpe and Romanelli was so close that Romanelli retained a lawyer on Volpe's recommendation. Redvale Investments Limited and Romanelli Drywall Limited were incorporated by J.M. Rosen on 17 January 1972. The already familiar names of Volpe and Luppino appear in the incorporation of Redvale Investments Limited.

Transcript Vol. 14, page 1841

MR SHEPHERD: When you incorporated C. Romanelli Drywall Limited, you didn't go to the DelZotto firm, you changed lawyers, did you not?

MR ROMANELLI: yes.

Q: And did you go to Mr Rosen's firm?

A: Yes.

Q: Why did you go to Mr Rosen's firm?

A: I went to Mr Rosen because I no was know any other lawyer and one day I was talking with Mr Paul Volpe and, you know, we was talking and he said that he had his lawyer that he knew since he was beginning in some business, because he was just started. So I went with that company then.

Volpe acknowledged his friendship with the Luppino family, including Gioacchino Luppino, the father, and Jim and Natale Luppino, the two sons. He is the godfather of Natale Luppino's son.

Transcript Vol. 18, pages 2461-3

MR SHEPHERD: How long have you known Natale Luppino?

MR VOLPE: I have known his brother between 15 and 20 years.

Q: That is Jim Luppino?

A: Yes.

Q: Is his name Vincenzo and he is called Jim?

A: I never called him Vincenzo. It is Jimmy, I know him as.

Q: Do you know Gioacchino Luppino?

A: Who's Gioacchino?

Q: Is that his father?

A: I know his father but I didn't realize his name was Gioacchino.

Q: What did you understand his father's name to be?

A: Mr Luppino.

Q: You don't know his first name?

A: No.

Q: How long have you known him?

A: I don't know, maybe ten years.

Q: And Natale Luppino, I think you already told me – I have forgotten – how long have you known him again?

A: Could be seven, eight years, something like that.

Q: From, say, 1971 on, about how often on the average would you see Natale Luppino?

A: Well, I baptized his son and my wife and I have been over to his house and he would come over to see me with his wife and kid at my house. I don't know how many times – once a week, once every two weeks or once every three weeks. I just can't answer that. I don't know.

Volpe testified that Joseph Bagnato was a lifelong friend and admitted speaking to Simone about giving him a job. At this time he had known Simone for several years.

Transcript Vol. 18, page 2464

MR SHEPHERD: How long had you known Simone?

MR VOLPE: About the same time – three, three and a half years I might even say.

On at least one occasion, Volpe accompanied Romanelli to Ottawa where he said he met Joe Zappia. Volpe told of his friendship with Nathan Klegerman and of his association with Charles Yanover.

Transcript Vol. 18, page 2478

MR SHEPHERD: Do you know Mr Klegerman?

MR VOLPE: Yes, I know him well. He is a student, University of Toronto.

Q: Do you know Mr Kiroff?

A: No, I don't know Mr Kiroff.

Q: Do you know Mr Charles Yanover?

A: Yes. Mr Klegerman brought him up to my house once with his girlfriend. They were swimming in the pool.

During the summer of 1972, Paul Volpe met with Angelo DelZotto at one of the DelZotto-Romanelli farms. Romanelli had stated that Volpe visited his farm frequently.

Transcript Vol. 15, page 1988

MR SHEPHERD: Did Paul Volpe ever go to your farm?

MR ROMANELLI: He came on my farms a lot of times.

Q: Was he ever there together with Natale Luppino, Jim Luppino, Simone, yourself and Angelo DelZotto?

A: On which farm?

Q: At Collingwood?

A: In Collingwood was a couple of times Mr Volpe was, Mr Natale Luppino, Mr Jim Luppino, and I and a lot of other people for a barbecue, and I guess Mr DelZotto just dropped in like he drops in every other time. As a matter of fact, even last Sunday they come up, he, the children, and his wife, they come by to go to the cottage and they come and visit.

Q: Did he meet Mr Volpe and talk to him there?

A: I could not tell you.

Romanelli and DelZotto were partners not only in the lathing and drywall business, but also in extensive farm holdings. DelRom Farms Limited, in which Romanelli and the DelZottos each held a 50 per cent interest, controlled well over 1000 acres of farm land, as well as machinery and cattle.

DelZotto Enterprises Limited was owned by Angelo, Elvio, and Leo DelZotto. The company owned a 30 per cent interest in C. Romanelli Lathing Limited and Durable Drywall Limited, which companies were almost completely confined to DelZotto projects. Company statements indicated that the profits were modest in relation to the volume of business: exhibit 451, statement, 31 July 1970, volume \$689,000, profit \$22,000; exhibit 452, statement, 31 July 1971, volume \$3,931,000, profit \$122,000; exhibit 453, statement, 31 July 1972, volume \$4,277,279, profit \$96,397. In spite of the close ties between the DelZottos and Romanelli, Elvio DelZotto testified that he first learned of Luppino and Volpe at a lawyer's office in January 1973.

Transcript Vol. 19, page 2535

MR SHEPHERD: When did you first learn that Natale Luppino was employed by Durable Drywall?

ELVIO DELZOTTO: When I went to Mr Humphrey's office some time in January or February of this year. I took it upon myself to speak to Mr Humphrey because I knew he was acting for Mr Romanelli. I was being interrogated at that time by the *Globe and Mail* and I went to Mr Humphrey

and had a discussion with him and he told me he was involved with a fellow by the name of Nat Luppino and that he also knew Paul Volpe.

Q: That is Romanelli?

A: He knew these people and this was the first time that I heard it.

Q: Does that also apply to Zappia the employee of the company in Ottawa?

A: No. I heard the name from you for the first time, Mr Shepherd, just before the hearing started.

Both Elvio and Angelo DelZotto tried to leave the Commission with the impression that their relationship with Romanelli was not a close one. That, however, is not my opinion, taking into consideration all of the evidence. In addition to their common holdings, we find that Angelo DelZotto would, from time to time, take an active interest in the affairs of the Romanelli companies. He helped Romanelli in connection with the Constellation Hotel and the Hyatt House projects.

Transcript Vol. 14, pages 1832-3

MR SHEPHERD: Did Mr Angelo DelZotto help the company in respect of any of its jobs?

MR ROMANELLI: Yes. He helped me in Constellation Hotel.

Q: The Constellation Hotel?

A: Yes.

Q: Yes.

A: And Hyatt House.

Q: What did he do for the company at the Constellation Hotel?

A: At the Constellation Hotel he provided bond and he helped me to supply a bond.

Q: How did – just before you leave that, how did he do that? How did he help you get a bond?

A: Well, he provided a bond for me, like.

Q: I am not sure that I am right, but do I understand that he extended a personal guarantee?

A: Exactly.

Q: I see.

A: Right.

Q: How large was the contract?

A: \$220,000.

Q: What did he do – first, is that all that he did at the Constellation Hotel?

A: Yes.

Q: And that was I suppose because you asked for his help?

A: Yes.

Q: Did he help you get the contract in the first place?

A: No.

Q: What did he do for you or for Durable Drywall in respect of the Hyatt House?

A: The Hyatt House I remember I went up to price in there and I talked with Mr –

Q: Keith Ward?

A: –Keith Ward.

Q: Yes.

A: And Mr Keith Ward wanted to know where I worked or which job I done.

Q: Yes.

A: And I couldn't give him any other name so I give him the DelZottos.

It would be natural to expect that with the close relationship between the DelZotto Enterprises and Romanelli that the DelZotto brothers, all of whom are actively engaged in the business, would know something about the personnel of C. Romanelli Lathing Limited and Durable Drywall Limited. The same attitude of complete ignorance was displayed in connection with the acts of violence which broke out in the summer of 1972. With that in mind it is interesting to examine the evidence of these people as to what discussion took place. Romanelli testified as follows:

Transcript Vol. 14, pages 1828–9

MR SHEPHERD: All right. Last summer, in 1972 I am sure you remember there was a good deal of newspaper publicity, and then there were comments made in the Legislature about the events in the construction industry which had occurred particularly about bombings. And among other names – you are not the only one – but among other names your name came up. Was there a meeting between you and the DelZottos to discuss that?

MR ROMANELLI: No.

Q: And there never has been?

A: No. They said to me – I just walk in one day and they said what is happen? What has gone wrong, and that is it. No meeting set with all the shareholders and everything.

Q: No. Well, this conversation which you had with them, did you just happen to go into the office that day? Is that correct?

A: Yes. I was going in the office there, different times a week.

Q: Yes.

A: Some time.

Q: To talk about construction problems?

A: Yes.

210 Report on the building industry

Q: Yes.

A: Exactly.

Q: And who said to you what is going on, or whatever they said?

A: I think first time I met was Leo, just Leo DelZotto.

Q: What did he say?

A: He just say to me what is happening.

Q: Yes.

A: You know, and I answered how am I to know.

Q: And was that the end of that conversation?

A: That was end of conversation.

Q: Then did you have any conversation with Angelo DelZotto or Elvio DelZotto about this?

A: No.

Transcript Vol. 14, page 1831

MR ROMANELLI: Like I said, they never – when I went in there we never discuss about those things.

MR SHEPHERD: Your answer is no, they did not? Is that correct? Is that right?

A: Correct.

COMMISSIONER: I have written your answer down, Mr Romanelli, in so far as bombings in the summer of 1972 is concerned, the Romanellis never asked about those things?

MR SHEPHERD: DelZottos.

COMMISSIONER: The DelZottos never asked me about those things. Is that right?

WITNESS: That is right.

After the July 1972 bombings of the Acme premises, Naftali Kanner, the president, became very concerned. He was acquainted with Max Tannenbaum, who at the time was closely associated with the DelZottos in large real estate and construction projects. Kanner felt that Tannenbaum could be of some assistance in ascertaining the source of the violence. He phoned Tannenbaum, but his first call was not returned. Tannenbaum gave evidence.

Transcript Vol. 18, page 2329

MR SHEPHERD: Yes. And in the year 1972, did you have a number of associations in business with members of the DelZotto family?

MR TANNENBAUM: I have been connected with the DelZottos in the company for quite a number of years now; I would say close to 15 years.

After the September 1972 bombing, Kanner telephoned again. Tannenbaum enquired from Angelo DelZotto and was told that Romanelli merely does work for them and could give no information. Consequently, Tannenbaum was of no assistance to Kanner.

Transcript Vol. 18, pages 2329–32

MR SHEPHERD: Mr Kanner testified that he telephoned you in the summer of 1972 and spoke to you, making reference to the name of Mr Romanelli and to the name of the DelZottos. Do you recall such a conversation?

MR TANNENBAUM: Yes, I do. He called me one day and said that he had been talking to my son, Harold, and that Harold suggested to him to speak to me. He called me and told me that he had been having quite a bit of – I don't know what words he put it in – but trouble; certainly it meant to be trouble. I forget if he mentioned Romanelli and also mentioned his company's name but, in any case, the thing was that he wanted to know from me, that the fact he knew I was partners in certain ventures with the DelZottos, that he was given to understand that the DelZottos were partners with Romanelli or his company –

Q: Yes.

A: – and if I would be good enough to enquire if the DelZottos were partners and, if they were, if there was anything that I could possibly do to try to get things straightened away, or whatever you might say.

Q: And what did you say to that?

A: Well, I said that as far as I knew that I had never heard of them being partners – in the lathing business – but that I would certainly the first chance I had to speak to Angie DelZotto who was really the fellow that I had dealt with over the years –

Q: Yes.

A: I had called him and he was out. I think it was either a day or two days later I had occasion to get together with Angie and also with one of my right hand chaps, a comptroller of mine, Win Andras, and I told him about getting the call from Mr Kanner there. He said, 'Max, all I can tell you is that he does a lot of work for us. We definitely helped them financing. As far as having any shares in that company, Elvio would be the chap that would know that,' and he was away at the time. That was it. I think that, oh, I don't know, three or four days later, Mr Kanner called me again and asked me if I was able to do anything, and I just told him that I spoke to Angie and told him the conversation, and that was as far as it went. I never spoke to Mr Kanner again and he never called me again and I didn't call him.

I find it strange indeed that these people who have large business



Figure 20 (appendix 69 exhibit 1055)
Charles Yanover

interests in common adopt an attitude of knowing so little. It is just not credible that Angelo DelZotto would not know that they held a 30 per cent interest in Romanelli's company. A reasonable inference from the evidence is that they knew a great deal more than they were prepared to tell.

Charles Yanover is a young man, twenty-eight years of age, divorced, unemployed, and with a criminal record as shown in exhibit 392, appendix 68. His photograph appears as Figure 20, exhibit 1055, appendix 69.

Yanover associated with Nathan Klegerman from the time of his release from prison in December 1971. Klegerman too had a criminal record (exhibit 390, appendix 70) and was closely associated with Paul Volpe. Through this association, Yanover became acquainted with Volpe.

Yanover had operated a motorcycle business and usually drove a motorcycle. Figure 21, exhibit 370, appendix 25, is a photograph of Yanover talking to Klegerman in which Yanover's motorcycle can be observed. We know that the September bombing of the Acme premises was carried out by two persons on a motorcycle which bears a likeness to the motorcycle shown in this photograph.



Figure 21 (appendix 25 exhibit 370)

Nathan Klegerman and Charles Yanover with Yanover's motorcycle

There is some evidence to show that Yanover was with Paul Volpe in the northwest area of Metropolitan Toronto on 30 June 1972. The first shooting of the Acme premises took place on 3 July 1972. Exhibit 1070, which appears as appendix 71, is a traffic summons which was found in Yanover's apartment. It is dated 30 June 1972 and was issued to Paul Volpe.

Transcript Vol. 62, pages 9949-50

MR MCRAE: What were you doing with Mr Volpe in a car belonging to Mr Volpe on June 30, 1972?

MR YANOVER: What was I doing in a car on when?

Q: June 30, 1972 at Steeles and Bathurst?

A: I was probably saying hello to him.

Q: Riding with him in the car?

A: With -

Q: Paul Volpe.

A: Paul Volpe. I don't recall ever riding with him. I may have ridden with him, but I can't recall.

Q: And you were stopped by a police officer and given a summons in the vicinity of Bathurst and Steeles, June 30, 1972.

A: I was never in his car at that date.

Q: You have been in his car, and you were in his car at that date.

A: I don't recall it.

Yanover gave an unlikely explanation about how he came into possession of this summons on 14 December 1972.

Transcript Vol. 62, page 9952

COMMISSIONER: What you are being asked is how you got a copy of the summons?

MR YANOVER: I am going to explain it.

MR MCRAE: Explain it.

A: I want the date so I can give you precisely.

Q: I think it was about November of 1972, November or December - December 15th, 1972. Tell us about it.

A: On December 14th I was at Mr Allan Mintz' office conferring with him and I believe at that time he represented me, he was going to represent me on my gun charge, and at that time Mr Klegerman and Mr Volpe were there. They were there before I was and I came in and I said I have to go and report at the police station for my parole tonight, so Mr Klegerman asked me would I mind paying this ticket, and I said sure. I had to go to the police station anyhow, so

it was not much of an inconvenience for me to pay the ticket, so he gave me the ticket.

It is more probable, however, that Yanover was with Volpe at the time the summons was issued and it must be more than a coincidence that it was this very area of metropolitan Toronto where the shooting and bombings of Acme and Gemini took place starting July 1972.

The explanation is significant in that Yanover was involved in a charge of possession of guns and was present at a lawyer's office accompanied by Volpe and Klegerman when this charge was being considered. It would appear, therefore, that Volpe and Klegerman had more than a passing interest in the proceedings.

Randolph Wellington Wheatley was 33 years of age, married, and, at the time of giving evidence, had just been convicted of a criminal offence and was awaiting sentence. He was later sentenced to four years in prison. He had a criminal record, which appears as exhibit 1059, appendix 33, and his photograph appears as exhibit 1060, appendix 34. Yanover and Wheatley had been friends for some time.

Thomas Kiroff was a young married man, unemployed, with a criminal record, Exhibit 1086 appendix 30. His photograph appears as exhibit 1054, appendix 31.

Kiroff was well acquainted with Yanover, whom he first met through Yanover's cycle shop. Kiroff was also friendly with Wheatley. Kiroff then developed an association with an American gun dealer named Tony Shearer, whom he had met through Yanover. This association became so close that Kiroff visited at Shearer's home in Gilbertson, Illinois, in September 1973.

Transcript Vol. 62, page 9914

MR MCRAE: Do you know that he is under indictment now for unlawful dealing in firearms?

MR KIROFF: I don't know. He may have mentioned that to me once. He might be.

Q: You know he is. Don't say he might be.

A: Yes, I guess I know.

Yanover and Kiroff gave evidence originally at a closed hearing of this Commission. A closed hearing was necessary because they would not discuss the investigation with our investigators or our counsel, and the Commission had to ascertain whether their evidence was relevant and

material before being introduced at an open hearing. It is significant that when they were later summoned to testify in public, they refused to do so. They eventually did testify when so ordered by the Divisional Court.

I found Yanover and Kiroff to be arrogant and unreliable witnesses. An indication of Kiroff's character comes from an incident related to the commission by Thomas Morell who as you will recall from the chapter on violence, gave evidence about Kiroff's possession of dynamite. Kiroff had the audacity to harass Morell.

Transcript Vol. 63, pages 10030-1

MR MORELL: Could I say something?

COMMISSIONER: Yes.

WITNESS: Regarding this Royal Commission there have been at least a half a dozen occasions I have noticed by myself Tommy Kiroff driving around with other people in the car and making threatening gestures and it made my wife pretty paranoid and she is afraid to take the baby for a walk and go to the laundromat and this sort of thing. Every time he has just been like in his car and beeping the horn and there is always somebody with him and one time he came up with a camera snapping pictures of myself and my father and my father's store. Last Thursday night I was out on the street just next door getting some cigarettes and I was just coming back from the store getting some cigarettes and I just heard a voice, 'Morell.' I stopped, turned around. It was Tommy Kiroff about 15 or 20 feet behind me and he just added you bastard and with that I just walked away and I am hoping this sort of thing can stop.

The evidence indicates that it was a deliberate and calculated move that brought Paul Volpe, Natale Luppino and Joseph Zappia into the construction industry. There is some evidence that involves Yanover, Wheatley, and Kiroff with the acts of violence described earlier. Through Volpe there was a connection between Luppino and Zappia on the one side and Yanover, Kiroff and Wheatley on the other side.

Let us now examine certain payments which were made by Cesido Romanelli to Natale Luppino, through Joe Zappia. As previously described Luppino and Zappia were employed by Romanelli as escorts. It may be that these payments provided the money to pay for the shooting and bombings of Acme and Gemini. A number of cheques were made out by Romanelli to Zappia of Ottawa, but were cashed by Luppino in Hamilton. In many instances, Luppino endorsed Zappia's name on the cheques. It is unusual that the cheques were invariably cashed in Hamilton. The surrep-

titious manner in which the cheques were issued, endorsed, and cashed, leads one to believe that they were not issued in the ordinary course of business.

We found that Joe Zappia received a \$2000 cheque from Romanelli dated 26 June 1972, filed as exhibit 433, appendix 61. He called it a loan and gave a patently false story about the circumstances of cashing the cheque.

Transcript Vol. 13, page 1548

MR SHEPHERD: So you told him that your wife was sick and you had some problems, you would like to borrow \$2000 and, after some discussion, he agreed that the company would lend you \$2000. Is that correct?

MR ZAPPIA: Right.

Q: Then his office staff, I take it they prepared a cheque. Is that correct?

A: Yes sir.

Q: And Mr Romanelli signed it?

A: Right.

Q: In Toronto?

A: Right.

Q: Then did you endorse the cheque?

A: No, I told Mr Luppino to cash it for me.

Q: When did you go back to Ottawa, the day that you came to get the money?

A: Yes, I think so.

Q: So you came over in the morning, you have your discussion, Mr Romanelli handed you the cheque, is that correct, and you drove back to Ottawa; is that so?

A: No.

Q: Well then I have misunderstood you, what is the fact?

A: Well, I got the cheque and I asked Mr Luppino if he could cash it some place. So he said yes.

Q: Yes. So what did you do?

A: Well, he went to – he said he has got an account in Hamilton.

Q: Yes.

A: So I gave him the cheque and we drove to Hamilton and he went into his bank and he cashed it and came out and gave me the money.

Transcript Vol. 13, page 1553

MR SHEPHERD: Now, let's find out what you did with the cash, \$2000 cash that you say you had.

MR ZAPPIA: Some I gambled, some I used to buy groceries, some I used to buy clothes. That's all.

Transcript Vol. 13, page 1559

MR SHEPHERD: If you wanted the cash, why didn't you ask Durable Drywall to get you the cash? You could have gone to the Durable Drywall bank, it is only a short distance away?

MR ZAPPIA: Well, I didn't want to bother Mr Romanelli anyway –

COMMISSIONER: Mr Zappia?

WITNESS: Yes.

COMMISSIONER: I hope you realize that you are telling us that you were sitting in the car outside of the bank while Mr Luppino went in and endorsed your name on the cheque?

A: Yes.

The \$2000 cheque cashed 29 June 1972, exhibit 433, could very well have provided the money to pay for the shooting of the Acme premises on 3 July 1972.

Zappia and Luppino, the two men who had been employed by Romanelli as escorts, went to Hamilton where the cheque was cashed by Luppino, who endorsed Zappia's name on the back while Zappia remained outside sitting in the car. I find it strange that Zappia would not have entered the bank and endorsed the cheque. It is obvious that there was an intention to camouflage what was taking place.

I find Zappia's explanations about the repayment of this alleged loan unacceptable.

Transcript Vol. 13, page 1563

MR SHEPHERD: When you left Durable Drywall in January, 1973, Mr Zappia, I suggest there was \$350 still recorded on the books of that company as being owed by you in respect of that loan; did you make enquiry of them as to how much the balance was when you left?

MR ZAPPIA: What do you mean? Could you ask that question again please?

Q: Yes. When you left the company –

A: Yes.

Q: In January of 1973, did you ask how much was still owing on the loan?

A: On the \$2000?

Q: Yes.

A: Yes, I asked Mr Romanelli.

Q: And what did Mr Romanelli tell you?

A: Well, he said maybe there was another \$100 or \$150 owing, I think.

Q: In fact, I suggest to you there was \$350 owing according to the books of Durable Drywall; would you accept that for the moment as being true?

A: Could be.

Upon being interviewed by the Commission investigators, he did not tell them about the loan or his wife's illness and even said to them that he couldn't remember the cheque when it was shown to him. At the hearing, Zappia admitted lying to the police.

Transcript Vol. 13, pages 1571-2

COMMISSIONER: What do you call it? You admitted to us that you knew what it was and you admitted to us that you told them that you didn't know what it was?

WITNESS: Well I guess at that time I told them a little lie.

According to Detective Sergeant William Rajsic, when the cheque, exhibit 433, was shown to Zappia, he did not remember it, and according to Detective Sergeant Thompson, he seemed stunned. Luppino admits signing Zappia's name to the cheque.

Transcript Vol. 13, page 1657

MR SHEPHERD: I show you a cheque, exhibit 433, dated the 26th of June, 1972 payable to J. Zappia and in the amount of \$2000. It bears the signature of Joe Zappia and Nat Luppino. Did you sign the names 'Joe Zappia' and 'Nat Luppino' on that cheque?

A: Yes, sir.

The cheque, dated 26 June 1972, was cashed in Hamilton on 29 June 1972. Luppino purports to describe the events at the bank in the cashing of the cheque but, he says nothing about a deposit of \$1000 made at the same time (exhibit 448, appendix 62).

Transcript Vol. 13, page 1668

MR SHEPHERD: Can you tell me where the thousand dollars came from?

A: The thousand dollars?

Q: Yes, on the 29th of June, the day you cashed the cheque for \$2000 for Zappia.

A: I deposited a thousand dollars then?

Q: A thousand dollars, yes; cash.

A: Cash. If I did, must have had in my pocket or something; must have had it in the house or something.

Q: If that's so, you must have told me something which was not true. You described in great detail exactly what you did in that bank on the 29th June and you didn't say anything about depositing a thousand dollars?

A: I told you I didn't remember.

It is a reasonable inference from all of this that \$2000 of Durable Drywall Limited funds was thus provided in cash to be used on the week-end of 1 July 1972 for some sinister purpose.

Money was deposited in Luppino's bank account from time to time, for which he was unable to give any credible explanation. It is a reasonable assumption from the circumstances that some of those deposits were the proceeds of Zappia's cheques. There were a number of withdrawals of cash from the bank account which also arouse suspicion. On 5 July 1972, \$800 was withdrawn; on 6 July 1972, \$1000 was withdrawn; and on 21 July 1972, \$1500 was withdrawn. These withdrawals of cash coincide in time with the bombings which took place on 19 and 21 July 1972. In fact, the inference can hardly be ignored when one considers how well it ties in with the withdrawals indicated in exhibit 435, appendix 62.

Transcript Vol. 13, page 1680

MR SHEPHERD: So that I have it clear, Mr Luppino, because I am not sure I understand it, did you say I don't remember why?

MR LUPPINO: I don't remember the reason I drew out the 800 bucks, no sir.

Q: Then I show you a withdrawal slip for the next day, July the 6th, the previous one being July the 5th, for \$1000, and it came out in the form of fifty 20's apparently, and I ask if that's your signature on that withdrawal slip?

A: Yes.

Transcript Vol. 13, page 1682

MR SHEPHERD: Now there is no withdrawal from your account on the 19th of July. There is the \$800 withdrawal and the \$1000 withdrawal and, help me on this, Mr Luppino, on the 21st July the evidence was that the Gemini Lathing premises were bombed and a truck of Gemini's was damaged and some damage was done to a building owned by the partners of Gemini. You knew about that?

MR LUPPINO: I heard some of it, yes.

Q: Yes. That happened in the very early hours of the 21st of July. On the 21st of July I suggest as appears by a deposit slip signed by you—

COMMISSIONER: A deposit slip?

MR SHEPHERD: A withdrawal slip, sir.

COMMISSIONER: Thank you.

MR SHEPHERD: You withdrew in cash \$1500 made up of nine 100's, eight \$50 and ten twenty dollar bills. Is that your signature?

A: Yes.

Q: What did you do with that \$1500 cash?

A: I told you earlier. I don't remember. I mean I drew money out. I put money in. I drew money out and lent it to my family and put it back in again. I don't remember exactly how I spent money.

One gets the distinct impression from the considerable number and size of unexplained bank deposits and withdrawals that Luppino acted as a money-handler to provide cash when needed. Over \$6000 in cash deposits were made from June 1972 to February 1973 without any satisfactory explanation.

Transcript Vol. 14, page 1705

MR SHEPHERD: Mr Luppino, if my addition is correct, in these deposits that you and I have discussed it appears that from June of 1972 until the 8th of February, 1973, you deposited in cash in your back account, an amount exceeding \$6000, and it seems to be made up of twenty-four \$100 bills, twenty-seven \$50 bills and then some other bills. Can you tell me where you would get approximately \$6000 in cash in large bills in that period?

MR LUPPINO: Well, the only thing I can recall is all the money that it was put in was money taken out.

Q: Yes.

A: And so I used that – I would lend out to people who ask me money, I lend out and get it back and put it back. That's all money, like, my own money, just take it out and put it back in, it's not just that money to go in, that money was drawn out, I think if you would look –

Q: But I would like to know where it came from?

A: That's the money me and my wife worked for.

Q: The \$6000 in cash in that seven month period?

A: It was not cash, it was money in the bank drawn out and put back in.

The fact that the hirings were deliberate as testified by Simone, and not coincidental, as suggested by Romanelli, is further supported by the evidence of Superintendent Routledge of the Royal Canadian Mounted Police. I consider the following evidence cogent to the issue of whether a group of people was assembled to carry out a calculated plan of action in the sectors of the building industry covered by this report.

Routledge was the officer in charge of the RCMP National Crime Intelligence Branch and also director of Criminal Intelligence Service, Canada, which represents all major police forces in Canada. This service is used to combat organized crime. Superintendent Routledge defined organized crime as follows:

Transcript Vol. 63, pages 10035-6

MR ROUTLEDGE: The definition of organized crime has been – or a definition has been tried to be reached by many people, including the Supreme Court of the United States, Senate inquiries, the Roach Commission here in Ontario, and so on, and in so far as CISC is concerned, this is the definition we use for Criminal Intelligence Service Canada. We have a definition that has to be applicable to the whole of Canada from coast to coast taking into consideration that you have varying degrees of organized crime. The one that we use in the Criminal Intelligence Service Canada is as follows: two or more persons concerting together on a continuing basis to participate in illegal activities either directly or indirectly for gain.

Now the key to this is, of course, the term 'continuing basis.'

Mr Shepherd, commission counsel, suggested the following definition.

Transcript Vol. 63, page 10036

MR SHEPHERD: Organized crime is a continuous conspiracy among professional criminals to prey upon society by the commission of crimes at large with a view to gaining wealth and marked by the acceptance of internal discipline and the recognition of a structure of rank among the members of the conspiracy.

It is of some interest to compare these definitions with that of the Honourable Mr Justice W.D. Roach in his report as Commissioner appointed under the Public Inquiries Act by Letters Patent dated the 11 December 1961.

The term 'Organized Crime' appears to have been coined in the present century. I am not aware of it having been used earlier.

It relates to an association of persons whose business is crime and to the criminal activities conducted by them as an organized group.

The commission of any crime, except one committed in the heat of passion, involves some degree of organization. The lone robber plans the course of conduct that he will follow in committing a robbery and even if he commits a whole series of robberies his conduct does not come within the meaning of organized crime.

Two or more persons may collaborate and formulate their joint plans for the commission of an isolated robbery but their commission of that offence does not bring it within the term organized crime. Together they might even commit several robberies at isolated times getting together and formulating

their plans for each one separately and in the intervals between them having no association or relationship with one another. One robbery having been completed each goes on his separate way, with no plans between them to become associated one with the other in the future. Each of those robberies would be an isolated occurrence and would have no relation to the others notwithstanding that they were committed by the same persons and notwithstanding also that, if it so happened, the same procedure was followed in all of them.

'Organized Crime' denotes a subsisting association as a social organism within the social body. Within that association are individuals or groups of individuals having a special function to perform and co-operating with one another as interdependent parts of the whole in such a way that together they operate a system and their purposes or objects are criminal. There is a continuing, subsisting, conspiracy between them evidenced in part by the substantive offences committed by them.

Organized crime does not have to be nation or state or province wide. Its existence is not determined by the area in which the conspirators operate, although it is not likely to be confined to a relatively small area. Fagin and his band of pickpockets in London were engaged in organized crime but I am not aware that Charles Dickens described their activities as such.

Neither is it necessary that the association be organized with the precision of a well run commercial organization. It may be relatively tenuous and loose knit. The 'fence' who operates a pawnshop in the City of Toronto and the housebreaker with whom he conspires to provide the outlet for the stolen loot together are engaged in organized crime and this notwithstanding that the pawnbroker is also engaged in legitimate business and the housebreaker, perchance, works in a factory by day and carries on his housebreaking at night and at irregular intervals. What brings their activities within the term is this, namely, that there is a continuing, subsisting arrangement between them by which the stolen loot is disposed of and converted into cash.

There is a misconception, more widespread than I should have thought, that there cannot be organized crime unless there is a 'Mr Big' at the top and in control, an underworld tycoon such as Al Capone in Chicago, Louis Lepke and 'Legs' Diamond in New York and other gangland leaders who established criminal empires in the United States. Fortunately we have not had characters of that ilk in this Province but we have had organized crime and specifically organized gambling.

Superintendent Routledge was then given the names of Paul Volpe, Paul Violi, Natale Luppino, and Domenic Joe Zappia, all of whom have been

mentioned in this report, and was asked whether they meant anything to him. He replied as follows:

Transcript Vol. 63, pages 10038-47A

MR SHEPHERD: Let me put to you these names – Paul Volpe, Paul Violi, Natale Luppino, and Domenic Zappia. Do you know those names?

MR ROUTLEDGE: Yes sir. I can state that they are known to each other. They do have common associates and they all have criminal records.

Q: Let us start then with Paul Violi, where does he live?

A: Paul Violi lives in Montreal. He is the vice-president of Reggio Foods and his partners in that business are members of the Cotroni family, and they are two brothers.

Q: Cotroni brothers?

A: Cotroni brothers. And both of them have criminal records.

Q: Is there any relationship between Paul Violi and the Luppinos?

A: Violi is related to the Luppino family by marriage.

Q: When did this take place?

A: On the 10th of July, 1965 he married the Luppino daughter, the sister of Natale Luppino.

Q: According to the record under your supervision has this man Violi, from time to time, been under surveillance by the police?

A: Yes he has.

Q: Why?

A: Well, this man habitually associates with criminals who are also under surveillance by the police department.

Q: Has Violi actually been seen by the police in the course of such surveillance in company with members of the Luppino family?

A: Yes, an example of this was on March 30, 1966. He met at the Luppino residence in Hamilton with Vincent Cotroni, Peter Magaddino of Buffalo, New York.

Q: Who is Peter Magaddino of Buffalo?

A: He is the son of Stefano Magaddino of Buffalo, New York, and Magaddino was found by the United States Senate Committee Hearings in 1963 to be the head of the organized crime in the Buffalo area, and this is backed up by the report published by the Senate Committee Hearings on page 581.

Q: Perhaps you could say first what is the full name of this public document.

A: The document is called Organized Crime and Illicit Traffic in Narcotics. The hearing was before the Permanent Subcommittee on Investigations of the Committee on Government Operations in the United States Senate, 88th Congress.

Q: You are referring to one of the volumes called Part 2, is that correct?

A: That is correct.

Q: This is the Commission before which the man Valachi testified?

A: The man called Valachi is mentioned. That is correct, he is mentioned in this booklet.

Q: You have said that Stefano Magaddino is said, according to those proceedings, to be the head of the principal criminal organization in Buffalo.

A: That is correct.

Q: On page 581 did you say?

A: 581. There is a chart in the book and at the top of the chart it shows Stefano Magaddino, FBI No. 778722C, as boss of the entire New York area as well as the Ohio Valley.

Q: You are quoting from –

A: I am quoting right from the document.

Q: Are any of the other men whose names I have put to you, referred to in the proceedings of the McClellan Committee?

A: Yes, the same document on page 58, there is a further chart called exhibit no. 65. It is called 'The Magaddino Empire of Organized Crime.' At the top of the chart is Don Stefano Magaddino. Now over on the right, in the last square on the right, it has under the heading Canada, the Agueci brothers, Dan Gasbarrini, John Papalia, the Volpe brothers, and the Cipolla brothers.

Q: And did the Volpe brothers include Paul Volpe?

A: Yes they do.

Q: Without troubling necessarily to read the passages, on what other pages are references found?

A: I can read from page 588 which makes reference to the charts that I just referred to. On the far end of the chart we have the Canadian areas that I am talking about, and the gentleman that is testifying here is the chief of detectives Michael Amico of the Buffalo New York police department. He says – I am talking about what would be the general Toronto, Hamilton, in those areas. I will cover them quickly. We have the Agueci brothers, Gasbarrini, Papalia, the Volpe brothers, and the Cipolla brothers. This is mostly considered a narcotics combine. Of course the specialties are both narcotics, extortion and gambling, but we know especially in our investigations, in narcotics especially.

Q: And again on page 609 there is a further chart and do I see there under Canada the name of –

COMMISSIONER: What page is that?

MR SHEPHERD: 609.

WITNESS: And it is exhibit 66.

Q: Do I see among others the name Paul Volpe, again Daniel Gasbarrini, and John Papalia?

A: That is right, that is correct.

Q: Who is Gasbarrini?

A: Gasbarrini lives in Hamilton and he has convictions for fraud, assault, and conspiracy.

[The above record was incorrectly stated and should be one charge of theft, two charges of false pretences, two charges of attempted theft, one charge of conspiracy to distribute narcotics, as indicated by appendix 72.]

Q: Who is John Papalia?

A: He also comes from Hamilton. He has convictions for breaking and entering, possession of drugs, assault, occasioning bodily harm, and a conviction in the United States relating to heroin, for which he was sentenced for ten years.

Q: Have these men Gasbarrini and Papalia been said to be associates of Volpe? Have they been seen in the company of Violi and Luppino, any of them?

A: Yes on October 16, 1968, Violi met with Gasbarrini at Luppino's residence. On the 22nd of June, 1972, Papalia, Paul Volpe, and Violi, all attended a wedding of one of Luppino's sons. And as recently as February 19, 1974, Papalia travelled to Montreal where he met Violi and Cotroni on that day, and on the next day, the following day.

Q: Now let us come to the Zappias, has Violi ever been seen in company with any of the Zappias?

A: Yes. On the 15th of June, 1973, Violi accompanied Leslie Coleman and travelled to Ottawa from Montreal by car and they met Domenico and Pasquale Zappia in the Cafe Italia. Again on the 13th of March, 1973, the same two came together with Vincent Desantis and met in Ottawa at the Calabrio Restaurant with Domenic Zappia.

Q: Who is this Coleman?

A: Coleman is the chap who has a criminal record for possession of weapons and he appears to be employed by the Cotronis. He now lives in Ottawa and Desantis is the other chap mentioned here and he also has a record for theft and breaking and entering.

Q: Can you give any instance of Violi, Luppino, and Volpe all being seen together?

A: Yes on the 22nd of June, 1972 they all –

COMMISSIONER: What date?

WITNESS: June 22nd, 1972.

A: They all attended the wedding reception of Domenic Luppino the brother of Natale.

Q: Who else of significance was also present?

A: The Papalias were also present and others with criminal records.

Q: Anyone else particularly worthy of remark?

A: Yes there was a gentleman that I feel is worthy of some comment. His name is Guiseppe Settecasi.

Q: Is that S-E-T-T-E-C-A-S-I?

A: Yes. He was born on the 18th of November, 1898 in Italy.

Q: He is an old Italian man?

A: Yes. I would have to take it by the date. I did not visually see him myself. To give a little run down on this man Settecasi, he is reputed to be high ranking Mafia chief in that country.

Q: This is the Sicilian Mafia?

A: Yes. In May of 1967 he was placed under forced preventive residence for three years, with an obligatory sojourn to a distant community away from his residence and normal surroundings. This prevention measure, under Italian law, is taken against persons considered by the Court to be dangerous to the security and morality of the public.

Q: Your last phrase I take it is a quotation?

A: It is sir.

COMMISSIONER: That was in 1967?

WITNESS: Yes. In May of 1967, sir.

Q: In Italy. And do you have with you superintendent, translated into English, the proceedings of the Italian Court which dealt with the man?

COMMISSIONER: Just before that, when did he come to Canada?

WITNESS: His visit to Canada was during the 22nd of June, 1972.

COMMISSIONER: He's not a resident of Canada?

WITNESS: He is not sir. He is not in Canada to my knowledge.

COMMISSIONER: He was in Canada as a visitor?

MR SHEPHERD: He was seen to be here on that date. He could have travelled from Italy any time after 1970 when his forced sojourn ended, is that correct?

A: Any time after 1972.

Q: No, three years after?

A: '67, I am sorry.

Q: So any time after 1970 he would have been at liberty to leave his place of exile as it were in Italy? Do you have any English translation of the proceedings of the Court in Italy supporting this summary which you have just given?

A: May I first of all – I have a copy of the law in Italy that this preventive measure was – Law No. 1423 of December 27, 1956 and it is under the heading 'Prevention Measures Against Persons Dangerous to the Security and Morality of the Public.' This was published in the Official Gazette no. 327 on December 31.

WITNESS: I have a translation of the Tribunal of Agrigento, my Italian pronunciation is not that good. This is a decree in Council Chambers for the application of preventive measures.

MR SHEPHERD: This is – quite lengthy judgment relating to the man. Is that correct?

WITNESS: Correct.

Q: Would it then, Superintendent Routledge, confining yourself as you have solely to the actual visual sightings, be fair to say that Volpe, Violi, Luppino, and Zappia are known to each other? Do they associate with each other and have common acquaintances among criminals? And would the date indicate those association are of some long standing?

A: I would agree with that entirely.

Superintendent Routledge stated that Paul Volpe, Paul Violi, Natale Luppino, and Domenic Zappia, were all known to each other and have common associates. His evidence detailed the associations and relationships of these persons with each other and with other persons, who had been described as participants in organized crime by a United States Senate Committee Hearing in 1963.

Luppino and Zappia were hired by Romanelli. They performed escort services for him. Bagnato did the same for Simone. Luppino and Bagnato were well known to Paul Volpe. Volpe had assisted in the placing of Bagnato with Simone. Volpe also met with Charles Irvine.

Transcript Vol. 47, page 6947

MR ZANINI: So we went along organizing, and there's a few schmozzles at the Lansdowne Theatre; certain people came to visit Charlie and Charlie exposed them at the Lansdowne Theatre but, after that, we had enough members –

COMMISSIONER: What do you mean, 'certain people came to visit Charlie'?

WITNESS: Well, it was supposed to have been Volpe or somebody there, Mr Volpe sent there by Gus Simone. This is the understanding. This is public knowledge, your Honour.

COMMISSIONER: I don't know about it. Perhaps you had better tell me.

WITNESS: I'll be glad to fill you in. Mr Irvine had a visitor sometime in May I believe –

MR SHEPHERD: It was earlier than that. I think it may have been in March.

WITNESS: No, it was not March – maybe April, the beginning of May. And the understanding – and I never saw it, and this is what was said to me after and also –

COMMISSIONER: By whom?

WITNESS: By Charlie Irvine.

COMMISSIONER: Yes.

WITNESS: Some of the people that were in the office, that they were in there.

We have previously considered the implications of the payments made by Romanelli of Toronto to Zappia of Ottawa and cashed by Luppino at Hamilton, and the fact that the money thus became available at the very times that acts of violence were taking place in which Romanelli could have more than a passing interest.

Added to this is the Montreal connection between Zappia and Paul Violi, as well as his association with Rosaire D'Aoust. It will be recalled that Zappia tried to promote D'Aoust's union in the Ottawa region.

The evidence of Cesidio Romanelli, Angelo DelZotto, and Elvio DelZotto impressed me as contrived. Romanelli and Angelo DelZotto denied the Mona Lisa meeting which obviously took place, as supported by Angelo DelZotto's writing in Simone's notebook. Angelo and Elvio DelZotto denied any knowledge of the employment of Luppino when the evidence makes it quite clear that he was the constant companion of Romanelli, a DelZotto partner who was in frequent contact with them. The Mona Lisa meeting and the Luppino hiring are of greater significance in the light of the denials.

Considering all of this evidence, it is a reasonable inference that there existed at that time an association of persons for the purpose of conducting illegal activities. I am of the opinion that the measures taken succeeded in blocking these activities in the sectors of the construction industry under investigation. I suspect that it has been made clear to all, that activities in the construction industry are subject to the same rules of law that govern the community at large.

Combines and price-fixing

The members of the Metro Lathing Association were concerned about competition from other companies and also about competition between themselves. One of the solutions for a time seemed to be in the area of merger. In December of 1971, according to the evidence of Simone, there were discussions between Cesidio Romanelli and Naftali Kanner and Stanley Sosin about merger.

Transcript Vol. 5, page 286

MR SHEPHERD: Now, in or about December, 1971, according to evidence

which will be led, there were discussions between Mr Romanelli – acting for Durable Drywall – and Mr Kanner and Mr Sosin acting for Acme, looking towards a merger of these companies and this may have come to your attention. You may have some knowledge of it. Do you remember?

MR SIMONE: Yes, I recall that Mr Kanner – I think he made a statement admitting that he would take in any contractor who would want a merger with him.

This attempt to merge did not work out, mainly because Romanelli was not prepared to include the DelZotto work in any proposed merger. Then, in the spring of 1972 there were the merger talks between Acme, Downsvew, and Gemini. It appeared that Tullio of Downsvew changed his mind after he was threatened and the merger with Gemini came to an end after the bombings in the summer of 1972. With the failure of merger as a solution for the problems, the contractors turned to schemes of combines and price-fixing. According to Kanner, the larger contractors had the right to do what they wanted. Kanner complained that the developers contributed to the downfall of the industry by shopping bids.

Transcript Vol. 10, page 1175

MR SHEPHERD: What about your clients and customers, do you think that their conduct was beyond reproach?

MR KANNER: Actually clients are like this, they haven't got any allegiance to nobody except to the dollar. Overall the whole industry actually, the contractors were exploited. They were pitted one against each other.

The contract was in fact awarded to Acme Lathing and Plastering.

Northdown (Cesaroni) and Durable (Romanelli) were competing for the Hyatt Hotel project in 1971. They finally agreed to do the job together. Cesaroni claimed that Romanelli did not supply men for the job and Romanelli claimed that Cesaroni did not pay him his share of the profits. The actual facts may never be known, but this is an example of the kind of controlled bidding that took place.

Another example of closed bidding appeared in the evidence of Joseph Mittl of E & M Lathing Company. At the request of Simone he reconsidered his bid on Montgomery Mills in 1972. In fact, he was told to leave the job alone. Accordingly, he raised his price by \$50,000 and was not awarded the contract.

Transcript Vol. 7, page 517

MR SHEPHERD: Was there an occasion when you bid a job and had reason to

think that you were a successful bidder and you were called in by the union who told you that they considered you had made a serious error in the bid because of some unusual feature of the plans and specifications and they feared you would lose a great deal of money and might then be unable to pay the men, and you did reconsider your bid? Was there an occasion like that?

MR MITTL: Yes.

Q: What happened, please?

A: We were bidding on a job in Montgomery Mills in Islington and Dundas.

Q: What year?

A: Last year.

Q: 1972?

A: Yes.

Q: Yes.

A: Well we had a call from Gus Simone one afternoon to come into his office, which I did. My partner went with me as well – Joe Emmer. We were told that we had made a mistake on the job and it was better for us to get out and leave the job alone.

Then there was a meeting of Metro Lathing Association in May of 1971, discussed above, when the suggestion was made about the posting of \$50,000 by each of the members. Present were Moreo Muzzo, Cesidio Romanelli, Naftali Kanner, Anthony Cesaroni, and Marco DeLuca. The purpose of the money was to organize the field.

Transcript Vol. 7, page 596

MR SHEPHERD: Were you at a meeting of the Metro Lathing Association when Mr Romanelli talked about everybody giving \$50,000?

MR DeLUCA: Yes, I was.

Q: And when did this occur about?

A: It may be the same time that occur, that \$1000 a month, more or less the same period.

Q: Somewhere in this same period of time?

A: Yes.

Q: And what was being talked about at that meeting?

A: Let us have \$50,000 each and let us organize the field. I answered him, 'Do you have \$50,000 to put in right away?' And he answered, 'No, I have to speak with my partners.' That was the end of it.

They talked about prices.

Transcript Vol. 7, page 597

MR SHEPHERD: I see. What had been discussed immediately prior to this? What was it that was being straightened out? What was being talked about, the prices, or what?

MR DELUCA: Maybe the price. Nobody make any money. I don't know. It was something like that. This sort of thing. This is natural.

Finally it was realized that more effective means of collaborating were necessary. A meeting of Metro Lathing Association was held at the Holiday Inn on Dufferin Street, and among those present were Romanelli, Muzzo, DeLuca, Kanner, Sosin, and Simone. Simone related a discussion concerning the difficulties of the member contractors. The complaint was that the general contractors played off one subcontractor against the other so that there was no profit left when the contract was finally awarded.

To counter this situation, Romanelli proposed that each member put up \$50,000 which would be used to straighten out the industry.

Kanner more or less agreed, but DeLuca thought \$10,000 would be sufficient. Muzzo was unhappy about the suggestion and advised complaining to the special police task force.

Transcript Vol. 5, pages 282-3

MR SHEPHERD: And the contractors were claiming that they couldn't make any money at the work?

MR SIMONE: Correct.

Q: Now, what remedies were produced for that?

A: Well, there was discussion took place and then I believe that Romanelli says: 'Well, you guys put \$50,000 apiece and I'll straighten the industry out.'

The evidence of Kanner is very significant in understanding the development which took place in the lathing and drywall sector. According to him, the industry was originally honest and straightforward. Then the business was transformed by greed and force, necessitating the hiring of people to regulate. The change took place in the middle '60s.

Transcript Vol. 10, pages 1172-3

MR KANNER: We had competitors like Mr Ballantyne and Son, Jacobs, Dinsmore and a few others. But everybody could make a living in it. It was pleasant to work. We worked hard, and I am sure that everybody was satisfied in the business. But greed and force somehow came in this business and they transformed the whole business, the lathing business, into some-

thing – you had to hire people to regulate the industry. They didn't know how to tender, so they had the notion that if they had people, people actually would be on each step of any contractor to straighten out the industry. This industry didn't need this. This industry was – everybody could make a living and everybody would be satisfied with it. Like I mentioned before, Ballantyne and Son, Jacobs, Dinsmore worked for years in the business and everything was okay.

MR SHEPHERD: I would like to pause and deal with this and then we will return in a moment to what I'm talking about. You say that initially your competitors seemed to you to be honest, hardworking men. It was a good industry, I think you said, and everybody could make a reasonable living.

A: That's correct.

Q: Now about when did you first remark to yourself that this seemed to be changing?

A: This is the middle sixties that it changed entirely.

Q: Changed entirely about the middle sixties?

A: That's right.

Q: Then you said that you thought what was at the root of the change was greed; is that correct?

A: Only greed. Greed and to dominate something.

COMMISSIONER: I thought before you used the word greed and force?

WITNESS: Actually to dominate.

COMMISSIONER: Domination?

WITNESS: Domination, yes.

Q: And who, I don't mean at first at least by name, but by category, who was exhibiting this greed which ruined the industry?

A: Actually most of the contractors. Especially the large ones.

Marco Muzzo was present at the organizational meeting of the group when Romanelli asked that they each put up \$50,000 to straighten out the industry. He originally testified that he had not been present at this particular meeting but, when others present confirmed that he was there, he changed his evidence to state that he probably was at the meeting.

Transcript Vol. 25, page 3494

MR MUZZO: Probably, Mr Shepherd, I was, but to the best of my recollection I cannot remember.

MR SHEPHERD: Do you recall somebody telephoning you later about the \$50,000?

A: Yes, I do.

COMMISSIONER: Do I understand your answer now, Mr Muzzo, to be that probably you were at the meeting?

WITNESS: I probably was.

According to Kanner, contracts were being allocated so that contractors could only work on certain jobs.

Transcript Vol. 10, pages 1179–81

MR KANNER: Well, actually, like I said, Acme Lathing, we were fairly, I wouldn't say the largest in the residential, we were a fairly large company like I said before, we had 100, 150, 110 men, 120 men, 80 men. Actually it depends on the jobs available in the city. Came a time in the middle sixties when we encountered, when we lost a builder, let's say a client, I wouldn't dare go back to him to get a repeat of the job because this client was lost to Acme Lathing, this client was lost. It wasn't ours. This was the consent – I don't know who was – who made this consent. It was not ours any more. And we used to do for Cadillac. We used to do for Greenwin and we used to do for the major companies, but to repeat if we lost Greenwin I never dare to go back.

MR SHEPHERD: Why not?

A: Somehow, somehow, not allowed. I don't know. I would experience – I couldn't explain why not. I couldn't explain. The managers were paid off or what was – but we did have an off-limits. Same thing with Cadillac. We have experienced also different ways. This is more tangible way. We have more cool way. We lost a job to a builder what we used to do ten, twelve years for him work, and he was a small man, from houses to apartments, one job we didn't get. Our competitor got it. Somehow the client was not satisfied with the competitor; the second job we get it and we did it. And the plasterer, when the building was finished and we went to put on the lime all the wirings were cut from the switch to the outlets.

Q: It had been sabotaged?

A: Yes.

Kanner also related the incident of the Chapel Glen contract in Don Mills in early 1972. Acme had done phase 1 of the project and had bid on phase 2. He was then approached by Gus Simone who suggested that he withdraw his tender and made Kanner nervous with what he understood to be veiled threats.

Transcript Vol. 10, page 1163

MR SHEPHERD: Did he say, I am your best friend, do me a favour?

MR KANNER: Yes, those words he said, do me a favour and I don't know exactly the words now – if I shall do the tender – or we should not take the Chapel Glen job.

Q: Yes.

A: And he will see like there is reciprocate or something, but on the other hand he mentioned something what make me nervous, but my family, my kids, have to be around, and something double talk, but I don't –

Q: What did you take this conversation to mean?

A: I don't know if I would take it a threat or not a threat, but like I mentioned before, he was not himself because he was drunk I would say.

This is confirmed by the evidence of Stanley Sosin.

Transcript Vol. 12, page 1351

MR SHEPHERD: As you know, Mr Kanner told us about having lunch with Mr Simone and that Mr Simone used language which Mr Kanner thought might be a threat or a warning?

MR SOSIN: When Kanner came back from that meeting, he was white as a ghost and he was, to say the least, nervous. He was definitely very, very uncomfortable and he presented the proposition to me that Mr Simone had said that the job was not for us, that we should stay away. And I said: 'To hell with him.' I said, 'I worked for that job' and up to this point no one had ever told me what I could or could not do. It was strictly up to our own capability and I said, 'Look there's no way. There's no point. I am sure I can get the job and we are going to take the job.' And he says – Mr Kanner says: 'Do what you want' and walked away.

Kanner was prepared to drop the project but Sosin insisted on proceeding, which they did, and they ran into trouble on the job.

Transcript Vol. 11, page 1170

MR SHEPHERD: Did you get the Chapel Glen job?

MR KANNER: Yes.

Q: Was there in fact any trouble?

A: Yes, was some problems. Actually I wasn't in town again.

It was such conditions which were discussed at the meeting in May of 1971, when the Association decided to employ men to regulate the industry.

Transcript Vol. 10, page 1186

MR SHEPHERD: Then let me go back again, if I may, to this meeting of late May of 1971 attended by Messrs. Romanelli, Muzzo, DeLuca and Cesaroni and yourself: you came late, and you heard a discussion, and from the discussion you knew that you and each of the other companies was to pay \$1000; that Romanelli was to collect it; that you understood the money was to go to Simone; and that you formed the impression that it was to enable Simone to employ not men at large but men to, in your words, regulate the industry; is that correct?

MR KANNER: I would say so.

Q: Was this explained to you in detail?

A: No. Actually this is mine own view.

Q: Yes.

A: Mine own view actually. I always said at meetings, most of the time, that we don't need any monies to hand out. We have only discussions and education, how to perform business or perform services. So constantly I pounded on this.

There is little doubt that the discussions and education meant combining to fix prices.

According to Kanner, the meeting of Metro Lathing in May of 1971, gave rise to the following discussion.

Transcript Vol. 11, page 1179

COMMISSIONER: And you said that Romanelli got up and he said that his pricing was correct and suggested a \$50,000 bond that each one would put up and whoever doesn't price properly would lose his \$50,000?

MR KANNER: That is correct.

Romanelli gave evidence and was a very reluctant witness, but even he acknowledged the meetings of the contractors, one of which he described as taking place in June 1971 at which the following contractors were present: Muzzo, DeLuca, Cesaroni, Gambin, Kanner, and himself. Simone was present for part of the time. That, according to him, was the meeting where the \$1000 per month was arranged and the purpose was to provide men for the industry, to get the men from the small contractors and direct them to the contributors. He went on to say that there was discussion about price-fixing.

Transcript Vol. 15, page 1885

MR SHEPHERD: Then what discussion was had?

MR ROMANELLI: Then the discussion was about this combining.

Q: About combining?

A: Yes.

Q: Tell me what was said about that and who said it?

A: Well, Mr Muzzo was talking about by doing this way, you know, we could fix the pricing on the jobs and things like that.

Transcript Vol. 15, page 1895

MR SHEPHERD: What was said about that?

MR ROMANELLI: It was said that Mr Simone to go back and forth and find out what bid was on the job and tell the price to put in.

Q: Tell these five men the price to put in?

A: Yes.

Transcript Vol. 15, page 1897

MR SHEPHERD: Then what were those five contractors going to do with that information?

MR ROMANELLI: Well, with that information we was going out and put the price on a job and decide the job, who was it going to.

Q: Yes?

A: And everybody was supposed to go along with the price.

According to Romanelli, it was in the spring of 1972 that the meeting took place at which the \$50,000 apiece was suggested for the purpose of price-fixing.

Transcript Vol. 15, page 1958

MR SHEPHERD: What was the purpose of this meeting?

MR ROMANELLI: The purpose of this meeting was that Mr Marco Muzzo suggested a \$50,000 bond that anybody would underbid the job would lose the \$50,000.

Romanelli gave an example of an accommodation bid on the Chapel Glen project. He stated that he had been approached by Sosin to put in a price of \$1,165,000 to cover Acme's tender on the job. The purpose of a cover was to make Acme's lower price look good. Apparently Romanelli did in fact make up a quotation in that figure which he submitted. Shortly thereafter, however, together with Suburban, on a joint venture bid, he also tendered \$965,000. Acme was betrayed and had to reduce its original bid.

Transcript Vol. 15, pages 1945–6

MR ROMANELLI: About the Protter job I never heard from him. I did work for Mr Protter before and I just put the price in and I think he got the job. And the Chapel Glen job, I recall that Mr Stan Sosin came to me, into my office one day, and he said that if I could cover the price for him for \$1,165,000 –

MR SHEPHERD: I'm sorry, I didn't quite catch it. If you could do what, please?

A: To put in a price on the Chapel Glen job for \$1,165,000.

Q: And he suggested that figure, did he?

A: Correct.

Q: Why did he suggest that figure?

A: Well, he says if I could cover him on the job –

Q: Cover him? Before you go on, am I right in that when these contractors talk about 'covering' each other on bids, what they mean is contractor A puts in a bid and then he goes to contractor B and asks him if he would put in a higher bid, so that the person calling the bid has at least two bids, but the first man's bid is the lowest and that is what is called 'covering' the bid?

A: Correct.

Q: Yes. So he asked you to cover his bid by putting in a bid of \$1,165,000. What did you do?

A: What I done, I made up the quotation, at the same time that he was there, before he left, and I show him and I sent the quotation to Chapel Glen – I can't recall, it is on the file anyway – on the Chapel Glen site.

Another example of accommodating bids and combine arrangements was the Constellation Hotel project. Romanelli tells of being approached by Muzzo and offered \$15,000 to give up the contract which had been awarded to his company on the hotel job. Apparently, other contractors had covered Muzzo's bid so that except for Romanelli's company he would have been awarded the contract. Romanelli refused.

Transcript Vol. 15, pages 2003–4

MRS SHEPHERD: Let me see if I have that right. You bid a job for the drywall of the Constellation Hotel and you were awarded the contract I take it? You got the contract?

MR ROMANELLI: Yes, awarded contract but after providing bond at that time. I was working on the bond.

Q: That is a bid bond?

A: Yes.

Q: Mr Muzzo came to you and offered you \$15,000 if you would withdraw from the contract; is that correct?

A: Correct.

Q: And you say that Mr. Muzzo told you that Mr Kanner, a principal of Acme Lathing Company, Mr DeLuca, a principal of Fanelli Lathing Company and also Yorkland Drywall and somebody else?

A: And I think Northdown Drywall.

Q: And Northdown Drywall? Mr Cesaroni again, and Mr Donaldson's company?

A: Well –

Q: They had, as you put it, covered his bid? That is, they had put in bids higher than they knew he was putting in?

A: Correct.

Q: And you refused to take \$15,000?

A: I refused to take the \$15,000 and I done the Constellation.

An example of a bid ring appears in the awarding of a plastering contract at the Royal York Hotel in 1966. According to the evidence of Detective Sergeant W.B. Rajsic, bids were called in 1965, but because the tenders were too high, the project was shelved. On looking into this matter it appeared that A.V. Hallam, whose bid had come through the bid depository, was the lowest bidder at a price of \$253,000 for the plastering.

R.G. Kirby were the general contractors. They reviewed the matter and called for new bids in 1966. Exhibit 840, which appears as appendix 73, is an analysis of the work to be done, the bulk of which was plastering. The second time around, A.V. Hallam reduced its bid to \$223,000.

The general contractor, having experience in Winnipeg, was able to get a bid from Cloutier & Elliott Limited, plasterers, and Brandon Bros. Limited, lathers, for a joint price of \$112,640 (exhibit 841, appendix 74). We find, therefore, that while the Toronto firm of A.V. Hallam bid \$223,000, which was \$30,000 less than their previous bid, a firm was able to come in from Winnipeg to do the work at \$112,640. They had estimated a profit of \$30,000, but because they had difficulty in getting workmen, their final profit was reduced to \$6,000. Both Elliott and Cloutier were not well enough to attend the hearing, but gave written statements (exhibit 842 and exhibit 843). A.V. Hallam were notified of this evidence but would not comment.

Another incident which indicated the operation of a bid ring had to do with the Commerce Court project. Christopher Smith, an architect with Page & Steele, gave evidence that the estimated cost of the drywall for the project was \$1,858,076. A list of bidders was prepared by the general contractor, the bank, and the architect. Exhibit 621, appendix 75, is the proposed list of drywall bidders.

Canadian Johns-Manville were added at the suggestion of the bank

because of their experience with the said company in Montreal. All contractors bid on the same specifications. The architect stated that it would be most unusual to have a 50 per cent spread in the bids.

Transcript Vol. 25, page 3477

MR SHEPHERD: Were all these bidders bidding on exactly the same set of specifications?

MR SMITH: Yes.

Q: What can you tell me as to whether or not a spread between the first bid and the second bid of a million dollars, which is approximately 50 per cent of the amount of the first bid, is an unusually wide spread?

A: Well, it obviously is. It is most unusual to have a spread that large.

Malcolm P. Mills, the engineer employed by Canadian Johns-Manville, gave evidence of their successful bid on the Commerce Court project. Their bid was a cool million dollars less than the other lowest bid and because of this great difference they ordered an independent survey; the report is filed as exhibit 623. They completed the job and made a profit of 16.5 per cent. Exhibit 622, which appears as appendix 76, lists the bids received.

In the concrete forming sector, the DiLorenzo group of companies were the largest in the field. Nicola DiLorenzo indicated in his evidence that when he dominated the sector, he set the prices at what was required to produce a modest profit. The situation changed and the competition became keen. He was of the opinion that there should be a system of bid deposit among the contractors. He complained that the large number of new contractors who were not aware of the problems tendered low prices, the larger contractors were faced with either meeting these prices or losing the organization which they had built up. For that reason they would take contracts at low prices and lose money. He also pointed out that they were particularly vulnerable to weather and available supplies. It was his feeling that a bid depository required some outside regulation.

Transcript Vol. 52, page 7559

MR DILORENZO: It is just a difficult business. I think to eliminate it, the bidding system would at least give the contractor a fair chance to get a good price on a piece of paper across and not a convince price.

COMMISSIONER: Not a negotiated price.

DiLorenzo had no problem when he was alone, but found it difficult to operate otherwise.

James R. Dawe, the owner of Dawe Forming Company Limited, also gave evidence. He had worked for both DiLorenzo and Leader and, prior to that, had been president of Local 97. He seemed quite knowledgeable about the industry. He told of the formation of the Toronto Form Work Association which was an association of form work contractors of which Leader was the largest. They signed a collective agreement with the Concrete Forming Council. This was in counter distinction to the majority of concrete forming contractors led by DiLorenzo, who ultimately signed with Local 183.

Dawe was of the opinion that the developers were able to control the price by playing off one contractor against the other.

Transcript Vol. 50, pages 7419–21

MR DAWE: Well, Mr DiLorenzo made a lot of money in the early stages of his career in the forming business.

MR SHEPHERD: Yes?

A: Because at one point he never used to do basements or footings or anything; he would just do what he referred to as the typical floors of a building, the simple work. And he had labour at, oh, unbelievably low rates – less than a dollar an hour in some cases. This was when there was a large number of immigrants coming into Canada and they would work at anything, any type of job. So that he had quite a successful three or four years. Well, then the competitors started coming, people like Leader and some other people that had been working with him and left and so on. And you get this old – I guess you can call it ‘Dutch auction’ of bidding. The builders were just having a field day because –

Q: You mean the developers?

A: Oh, yes.

Q: Yes?

A: Because when you submit a price it isn’t done as you would normally do on a commercial where you submit a sealed tender and it is open and the lower man gets the job. What you do is, there is about three rounds of negotiations to put in the price – I am using the figure of \$1,000,000 because there is quite a high cash flow in our business – and then he would show that to every other forming contractor in town and ask them if they could meet it. Of course Mr DiLorenzo, having a tremendous overhead and equipment and so on, he would naturally – he is very efficient. He had a very efficient operation, I must

say. His men were very good. However, they would just keep beating the price down, and it got to the point where we would know this, you see, the other contractors. I recall bidding on a particular project, and I knew that I would never get the job. I knew that Mr DiLorenzo would get the job in any case. So I bid very low purposely. And of course I got a phone call. And he was very excited, and he wanted to talk to me. And I strung him along for a period of time, and then I said, 'I have changed my mind; I don't want the project.' Needless to say Mr DiLorenzo ended up with my price.

The significance of this evidence lies in Dawe's knowledge that DiLorenzo would get the job in any case.

Multi-corporations

The evidence revealed that many general contractors and subcontractors carried on business under several different names, the reason usually being to evade the obligations of union contracts. The Labour Relations Act, section 55, provides a remedy in some cases; however, there is considerable evidence that work previously undertaken by one company would be dropped and then picked up by another company which was not bound by a collective agreement. The new company was then free to proceed with a new collective agreement or no agreement. The unlawful element of this procedure is that the same interests controlled both companies.

Jean Guy Denis gave evidence with reference to the difficulties of union organization in Ottawa. Denis described a meeting with Elvio DelZotto in December 1970. The Building Trades asked for a meeting with DelZotto Construction to negotiate a building trades agreement in Ottawa. Elvio DelZotto told him at that time that he had 168 companies, and that the company involved in Ottawa was one that had been set up for this particular job.

Transcript Vol. 8, page 756

MR DENIS: In our discussion, we all of us adopted the position that we wanted a building trade union whereby we would cover all the subjects and all of the unions affiliated to our Building Trades Council. Elvio DelZotto pointed out to us the firms he owned at that time – at that time – I forget the number he gave but I think he said it was around 168 companies that he controlled at that time and therefore that this was another company that was being set up for this particular job and at that time he wanted to sign up one company alone and we wanted to make sure that he signed for all of them that would be under the territorial jurisdiction of our building trades. It would encompass all of whatever companies he had in that area.

Transcript Vol. 8, pages 759–60

MR MCRAE: Why would he mention the fact that he had 168 companies or 160 or whatever?

MR DENIS: Well, the labourers apparently had problems with him in Kingston and elsewhere and a lot of us were aware of that, even though we might be naïve, we were informed at least well enough to know that in other areas this Building Trades Agreement had not been useful because of this number of companies. We wanted to make sure that we had it down to at least the companies that were within our area and amongst these companies, the names were brought up were Catkey Construction, Norona, Sardina, quite a number of companies that the labourers mainly were concerned about because they have had to apply apparently for certification time and time again and the same thing with the carpenters.

Q: Maybe there is no point to be made but was it possible the fact that he told you he had over 160 companies an effort to show you he did not have to deal with you because of his large number of companies?

A: Well, I think he was using it as an argument to show us that we cannot expect him to sign for all those companies but we wanted at least those that were within our territorial jurisdiction.

DiLorenzo, as we have seen, was one of the largest contracting firms in the concrete forming sector. He had signed an agreement with the Council of Concrete Forming Trades, which was a subsidiary of the Building Trades Council, which was in effect between 1969 and 1970. Then, in 1971, Local 183 left the Council. It had begun to organize the Concrete Forming Sector on its own. In order to enter into collective agreements with Local 183, new companies were used which entered into the agreements.

Transcript Vol. 52, page 7562

MR SHEPHERD: Did this happen? The Council had agreements with most of the companies in the field. Local 183 left the Council in the summer of 1971. Local 183 and the men and the contractors seemed to agree that it would be better to have 183 than to have the Council and the contractors, or many of them, then incorporated new companies or took companies off the shelf, as it were, moved the work force into those new companies which did not have agreements with the Council and signed agreements with Local 183 and from that time Local 183 represented the industry. Is that about the way it happened?

MR DILORENZO: I think so, yes. They really went out and got the men. They really got the men the proper way and so on. You see, they had an advantage also to everybody because most of these people are labourers.

Company-union joint activities

The evidence disclosed incidents of employers and union agents improperly working together: companies participated in the enrolment of their employees into selected unions; companies and unions worked together to prevent other companies from entering the field; and competing companies aided by unions fostered jurisdictional disputes between unions.

The active assistance that the DiLorenzo companies gave to the union organizers of the Concrete Forming Division of Local 562 has been described above. There was also the improper co-operation between the Metro Marble, Tile and Terrazzo Association, and the organizers for Local 31.

Ross Taylor stated that he had been a member of Local 31 for some years and now, since October 1972, he has been a business agent with the Local. He acknowledged that while he was the financial secretary and a member of the Board of Local 31, he was engaged on a full-time basis by the Metro Association. He was paid both by the Association and individual members thereof at the rate of \$150 per week and expenses. He said that his duties consisted of promoting the member companies of the Association among the builders. That hardly seems to me to be a full-time occupation. I formed the impression that he was primarily engaged in organizing the employees of the member companies.

Taylor's duties were described by Da Re as follows:

Transcript Vol. 20, page 2765

MR MINSKY: No, I did not hear you.

MR DA RE: We were beginning to think, yes, the residential field is ours.

Anybody that is not part of this agreement cannot work, and Ross Taylor was just looking after this specific situation. He was supposed to sign up the men, to inform the builders that we had all signed and kind of be the business agent for Local 31.

There was an understanding at least for joint activity by the companies and the union to enroll the employees.

The marble, tile and terrazzo sector of the industry was dominated by the members of the Toronto and District Marble, Tile and Terrazzo Contractors Association, who were the oldest and largest contractors in this field. Exhibit 496 is a copy of an agreement entered into on 15 April 1966 between the Association and Local 31 of the Marble Masons, Tile Setters and Terrazzo Mechanics, affiliated with the Bricklayers, Masons and Plasterers International Union of America. That agreement provided, among other things, as follows:

ARTICLE I. TERMS OF AGREEMENT

(d) No member of the Union shall be permitted to work at Marble, Tile or Terrazzo for any person, corporation or partnership who is not a Party to this agreement.

(e) The Union shall not sign this agreement with anyone other than a party whose business is recognized as Marble, Tile or Terrazzo work as laid out in Article 2 hereunder.

(f) The Contractor agrees that it will not sell any material, supply any men, or rent any machines to any Contractor who does not have an agreement with the Union.

(h) It is agreed that the joint trade committee shall be three representatives from each party, and this committee shall have the power to set up apprenticeship arrangements, also to screen new contractors, and to hear violations of agreement and deal with same. The committee to meet at least once every three months, and to be called any time in case of emergency. Proper rules and procedure are to be established at the first regular meeting. Minutes to be kept of all meetings.

The companies included in this Association are Brooks Marble & Tile Company Limited, Connolly Marble, Mosaic and Tile Company Limited, National Terrazzo and Marble Company Limited, Terrazzo Mosaic and Tile Company Limited, York Marble, and Tile and Terrazzo Limited.

There was evidence given by Gino Da Re, owner of Mercury Terrazzo Limited, and others to the effect that they were unable to become members of the Association. They referred to Article 1 (h) which they said was used to keep them out. There was no positive evidence of a refusal of membership, but the evidence is clear that companies such as Mercury Terrazzo Limited and others who later became associated in the Metro Marble Tile and Terrazzo Association were unable to become members after reasonable efforts to do so. The effect of not becoming members of the Toronto and District Association was that they were unable to get a contract with Local 31, which was the recognized union in that sector. This is in accordance with Article 1 (e).

Olivino DeCarli was the president of Connolly Marble Limited, one of the more important contractors in the field. He was also the president of the Toronto and District Marble, Tile, Terrazzo Contractors' Association. That Association was formed in 1958, by nine of the leading companies. It negotiated collective agreements on behalf of its members with Local 31. It continued to do so until 1971, when province-wide negotiations were undertaken by the Provincial Guild, of which, incidentally, DeCarli was also the president. DeCarli stated that the Toronto association purported to

screen new contractors. His explanation of this phenomenon is quite intriguing.

Transcript Vol. 22, pages 3103-4

MR DECARLI: Now as far as the other part, at that time there seemed to be an awful lot of what we here call residential contractors, and as again stated here by the other witnesses, some of them were not of the type that the industry would be proud of; that is to say I am saying some of them; not all of them. So therefore before any of these contractors were brought into the commercial field and give the industry a bad name by doing poor work and what have you, that probably the contractors should have some idea now who the heck are you bringing in here. So that was the purpose of the thing. Not to veto anything, just to *carte blanche* to give us, some of us, let's see what kind of work these people do.

MR MCRAE: It did give you in effect power of vetoing?

A: No, no. Absolutely. We never had that.

Q: Let's get that again.

A: Yes.

Q: You are saying there were incompetent people, I take it, relatively incompetent?

A: Some of them.

Q: That you were afraid of getting into the industry?

A: Yes.

Q: So that you incorporated into your union agreement this clause with respect to a committee to screen new contractors; you incorporated that into your union agreement so that, through the vehicle of the union you could keep contractors that you felt might be incompetent from getting into the commercial end of the industry; is that it?

A: No, I would feel that we would advise the union that we were not in favour of this, but to veto anything that the union wants to do, within, you know, within limits, I wouldn't pretend to try and do that, with the experience in this case, but we would hope, and when I say 'we,' I say the committee and the members at large because these agreements are approved by the committee at large before they are signed – not committee at large but by the members – we would have hoped that there was some check as to what elements would come into the industry. But not by way of veto; by way of advice rather than veto.

Danilo DeMonte had been business manager of Local 31 and had then become president of the Ontario Provincial Conference of the Marble, Tile

and Terrazzo Union. He negotiated on behalf of the union on a province-wide basis with the Provincial Guild, which represented the employers. He also negotiated individual contracts with employers who were not members of the Guild. He admitted the clause in the collective agreement providing for the screening of new members to the Guild but stated that it was never used.

Transcript Vol. 27, pages 3730–1

MR DEMONTE: This we have achieved. When it comes to a grievance, prior to the provincial agreement the grievances were given to the Joint Committee but never did we sit down and screen any new contractor. This is definitely – never even been discussed.

Primarily we worked strictly on the apprentices or a grievance.

He explained that Local 31 entered into the collective agreement with Metro, exhibit 497, in good faith, but because they had not signed up the required 50 per cent of the employees, prior to the execution of the agreement, they could not become the certified bargaining agents for the employees when their position was challenged.

DeMonte, on behalf of the union, stated in presenting its brief, that it did not limit collective agreements to members of the Toronto and District Association. There was evidence, however, by a number of companies to the effect that they would like to have had collective agreements with Local 31 and that the lack of such an agreement prevented them from obtaining or completing contracts. Thus, Gino Da Re gave evidence of schools at Oshawa and Orillia where he ran into the problem, but because of special circumstances was allowed to complete; however a job in Brampton was taken away from him because of the union situation.

Donald L. Paolini of Paolini Tile and Marble Company Limited stated that he was prevented from doing commercial work because a Local 31 agreement was not available. He participated in the formation of The Metro Marble and Tile Association. Then on 7 February 1969 the collective agreement, exhibit 497, which appears as appendix 78 was signed. Paolini admitted improperly paying the initiation fees of \$50 for each of his employees in order to meet the technical requirements of union membership. The subsequent application for certification failed. He gave evidence;

Transcript Vol. 21, page 2846

MR MCRAE: Why were you confined principally to residential work?

MR PAOLINI: Well at the beginning I don't think we were capable of going into

larger work. For the most part that was the main reason. But as time went on we were prevented from going in simply because a union contract was not available to us.

Q: A union contract would be a contract with what union?

A: With Local 31. That was the recognized union.

There was a school job in which the general contractor requested that they leave because of the union situation.

Transcript Vol. 21, page 2849

MR MCRAE: Was there any problem with you doing commercial work?

MR PAOLINI: Well, there was a problem because we couldn't get commercial work. We were prevented from getting it, work of this nature. I recall vividly one builder – I can't recall the fellow's name now – I may have it in the files – I was doing an apartment building for him on Richview and Royal York Road and the same gentleman asked me to quote on a school that he was building in Islington. I can't remember the name. Anyway, I gave him a price and we were awarded the job.

Q: The school would fall into the category of?

A: Commercial work. And he gave us the job and we ordered the material and started the men on the job, and I don't think it was three hours – the men had just put some base in the washrooms – when Mr DeMonte was on the job, and he told us in no uncertain terms to get off the job. I told him that I wasn't going to get off the job and he knew where he could go. He told me then, you know, you're not going to fool around with me. I'll have you off this job within no time at all because if you don't get off, he says, I'm going to pull the rest of the trades. So I says I can't do anything about that, that's up to you and the general contractor. I says, when he tells me to leave the job, I will. So it was shortly after that the general contractor came to me and he asked me, he explained the problem, that if I didn't get off the job that the school wouldn't open and the trades would be pulled off the job. So to facilitate the situation, and not to aggravate the builder, and have everything upside down, we moved off the job.

He also gave as an example St Paul's School in Mississauga, on 6 May 1971, when the general contractor, C.A. Smith, required him to withdraw. A further example was the Thornlea Secondary School in which he was the low bidder. The job was awarded to Connolly, who was \$12,000 higher, again because Connolly was a member of the Toronto and District Association with a Local 31 agreement, while Paolini was not.

Transcript Vol. 21, page 2866

MR PAOLINI: Correct. We bid a job, I have not got my quote here as I had with this other school, it was Thornlea Secondary School, I am almost certain that was the name, and we were low bidder on the job. We were low bidder on the job and the next highest bidder to my understanding from Mr Heenan was Connolly Marble, which the tender was \$12,000 higher. \$10,000 to \$12,000.

Bruno Manias, the president of Time Terrazzo and Tile, gave evidence. He apparently was not bothered if the projects were outside of Toronto and District. He did, however, run into problems in Toronto where he would be questioned about his union affiliation. He referred to a school job for Warren Bros., General Contractors.

Transcript Vol. 22, page 2986

MR MCRAE: So you started in 1969 to bid on a commercial project?

MR MANIAS: '68 or '69.

Q: '68 or '69? Do you remember where it was, the first one you bid on?

A: No. I just remember the general contractor, Warren Brothers.

Q: Warren Brothers?

A: Yes.

Q: Do you remember what type of contract it was?

A: It was a school. I was low bidder.

Q: You were low bidder?

A: I bid before but there was higher one so I can't check price; I can't check anything when I am higher one. And in the Warren Brothers I remember I was the low one and he asked me about union contract. I am a union member. I said no. Do you apply for union member? No, we never do anything. So we can't give you the job. I leave it. I didn't bargain. I didn't fighting for it. Just didn't do anything. Just leave it.

He pointed out that a collective agreement with Local 31 was necessary because the builders had agreements with the Toronto Building Trades Council. Accordingly, they required a collective agreement with one of the member unions. He gave an example of a small job done to accommodate his brother-in-law who was away on holidays, in which he was ordered to leave because he did not have the proper union affiliation.

Transcript Vol. 22, page 3005

MR MANIAS: So job come up and I went to do the job with my men and prepared to earn whatever it cost and pay it.

MR MCRAE: Was it a big job?

A: No, no. It was about \$5000 job, material and labour and everything. So we working in that job and when at the end of the job, most at the end of the job, in the afternoon I imagine or 11 o'clock in the morning, I don't recall exactly, Mr DeMonte came on, on the job, and he said what I am doing there, and I said, well, I am doing this job for my brother-in-law because he was away. So he told me to quit job immediately or he give me lots of problems to me and my brother-in-law.

Several examples of company fostered jurisdictional disputes were brought to our attention. The Hyatt House project in 1971, which we considered in the chapter on payments is one such incident. Another example of company-union activity occurred in the transfer, discussed earlier, of local 562 to local 183. In 1968, Nicola DiLorenzo co-operated in the organization of his workers into the Concrete Forming Division of Local 562. Now, in 1969, he attended two meetings in Chicago dealing with the takeover by the Labourers' Union 183. The evidence indicates that DiLorenzo was prepared to assist in the transfer in consideration for a \$2,000,000 loan to his company. DiLorenzo admitted speaking to the international president of the Labourers' Union, Mr Peter Fosco, at the meeting in Chicago in May 1969. Later, as a result of further discussions, a second meeting was arranged. Simone now received definite instructions from his international president, Sal Masso, to meet in Chicago with the international president of the Labourers' Union, Mr Fosco, and others, to negotiate the takeover by Local 183. It was now clear that the Labourers' Union would make no payments other than the payment of actual expenses incurred by Local 562.

The organizers, union agents Simone and Zanini, however, were not prepared to let go without some consideration. The consideration for the transfer now took the form of a substantial loan to DiLorenzo who was the largest employer of concrete forming workers. The company and the union agents were to work together to effect the transfer.

Transcript Vol. 52, page 7535

MR DILORENZO: Then George Orla came to me with this idea that I was stupid, that these unions, they could have lent me the money and everything would be fine. And I think at the end I fell for it, you know, and I did ask Mr Fosco.

Stefanini confirmed that there had been some such discussions.

Transcript Vol. 49, pages 7128–9

MR SHEPHERD: Did you at any time later hear from anyone anything to the effect that any contractor had sought a loan or guarantee of any kind?

MR STEFANINI: Yes sir, I did, after.

Q: What did you hear and from whom and when?

A: I don't exactly remember if it was one or two weeks after that meeting, Mr DiLorenzo called me up to his office and he asked me if I knew anything about a loan. I was highly surprised. I asked for clarification and he said that he requested our international union for a \$2,000,000 loan.

Q: Two million dollars?

A: Two million dollars.

Q: Not one million as Simone said?

A: No, two million, at 10 per cent. He said the interest he was paying at that time was a lot higher and that he could still manage the 10 per cent.

Q: Was this to be a loan or a guarantee of a bank loan, or what was it?

A: Frankly sir, I didn't know that much of it and I didn't really ask for clarification because the whole story sounded so fantastic to me I didn't know what to say.

Q: Did you make any further inquiry of anyone about it?

A: Not until recently.

Q: What inquiry did you make?

A: We called our international union and this morning I had a telephone conversation with Mr Connerton regarding his recollection of this loan. He said that he spoke to Mr Fosco and that, as far as Mr Fosco remembers, the contractor – either at that meeting or shortly after – he asked for a guarantee of a loan. However, Mr Fosco made it quite clear that the international could not guarantee such a loan and the request was denied.

Simone's explanation was that DiLorenzo changed his mind about the transfer when he failed to get a substantial loan from the Labourers' International Union.

Transcript Vol. 42, pages 6007–8

MR SHEPHERD: Now why did he – why had he changed his mind if he had?

MR SIMONE: Well, a couple of days later I was talking to John Stefanini and he says – I believe I had told John, Nick is changing. He agreed and now he seems to disagree. I believe John told me that Nick had asked the Labourers'

Union to vote for him or to guarantee on the bank that he needed millions dollars or something for his business.

Q: The Labourers' Union said that they would not do that?

A: That is what I gathered; they wouldn't do it. That is the reason he had changed his mind.

The loan was not made and the transfer did not take place as planned, but the negotiations constitute an attempt at improper company-union activity.

UNIONS

Business agents

Trade unions represent employees in the exercise of their rights and obligations with employers. The union is represented by a business agent. The duties performed by the business agents vary in different unions and at different times. The agents are, in each case, the executive arm of the union. Because of the importance of their position and the fact that they represent the union in all aspects, union agents occupy a position of highest trust. It is through them that collective agreements are negotiated and enforced. It is often through them that the men are employed. The business agent is the manager of the union and has the responsibility of conducting the regular business and looking after the collection and disbursement of funds. An earlier chapter described some business agents who profited personally from their positions of trust. We found other instances of improper conduct which ranged from negligence in the performance of duties, to unlawful behaviour. Unfortunately, there is very little that the members can do to extricate themselves from the clutches of unscrupulous business agents. In this context, it becomes necessary to comment further on the activities of certain business agents.

Anthony F. Amis

Anthony F. Amis (known also as Frank Amis) had been expelled from Cement Masons' Union Local 598. After an absence of about two years, he carefully planned, over a period of months, to have himself re-admitted and elected as acting business manager of the Local. Finally on 21 August 1972 he succeeded in putting himself in complete control.

Mr Shahid Minto, a chartered accountant of the firm of Touche Ross, examined the minute books as well as other books of the Local and the

income tax returns for Frank Amis on behalf of the Commission. The minutes of 21 August 1972 of the Executive Board indicated the appointment of Anthony Frank Amis as acting business manager of the union for the balance of almost three years of the unexpired term.

Transcript Vol. 35, page 5096

MR SHEPHERD: Does it then appear, from a certificate signed by the vice-president, Mr Andrew Haulska, that appointments were made at the general membership meeting of August 21, 1972. Is that correct?

MR MINTO: That is correct, sir.

Q: And the certificate reads: 'The Executive Board's recommendation, the appointment to office of Business Manager of Local 598 for the duration of the unexpired term of Brother Anthony Frank Amis ...' – is that correct?

A: That is correct, sir.

One of the more startling aspects, however, was the terms of the employment and pay awarded to Amis. Exhibit 848, which appears as appendix 79, is a report of the investigation of the financial transactions. Shown in this report are payments made to the office secretary. It turned out that she was the wife of the business manager – Frank Amis. The conditions of the agreement of his employment dated 11 October 1973 are set out. They appear in the minute book signed by the members of the Executive Board. All previous business agents had been paid at the rate of \$250 per week, which was the salary of a cement mason foreman, in addition to which, they received \$165 expense allowance. It was the custom in the labour movement to pay the business manager the earnings of a foreman, with no extra pay for overtime. The payments to Amis greatly exceeded the normal rate.

During the course of his evidence, Amis made the following admissions: (1) that payments made to him were charged to and shown as organizational expenses; (2) that payments to him were back-dated; (3) that payments to him were placed in earlier statements in order that they would not appear as current expenditures; (4) that he had tried to avoid payment of income tax; (5) that he had been compensated by the local for the time he was suspended from the union with no abatement for his earnings during that period; (6) that there was no reference in the union Minutes to the actual amounts to be awarded to him.

Exhibit 846 is a looseleaf book with financial reports of the union. Shahid Minto gave it as his opinion that one of the statements was irregular in that the figures were out of line and it was his opinion that the last paragraph had been typed at a different time. Amis agreed with that opinion.

Transcript Vol. 35, page 5113

MR SHEPHERD: Does this bear the appearance of having been typed on the same typewriter, no doubt by the same hand, but perhaps the sheet had been out of the machine and then inserted back in again. Is that correct?

MR MINTO: Yes.

Transcript Vol. 35, page 5195

MR SHEPHERD: It is quite correct then that this entry was typed, this is after the last entry of telecommunications.

MR AMIS: That is right.

Zygmunt Jedrasik came in as an officer of Local 598, along with Amis. I find it significant that in his evidence he was unable to recall that the members were ever told the amount to be paid to Amis.

Transcript Vol. 35, page 5259

MR JEDRASIK: And Mr Amis gave a suggestion to the Executive Board that he wants to get paid for time which he was absent or kept off the union.

MR SHEPHERD: Yes.

A: So the Executive approved it and we brought this matter in the general meeting to the members, with the members' approval also which is in the minutes again.

Q: Did you tell the members that this was \$8300 – odd?

A: I don't recall that, sir.

Nor did he remember whether the minutes had been read to the members.

Transcript Vol. 35, page 5260

MR SHEPHERD: Was that minute read to the membership?

MR JEDRASIK: I don't remember. I might be present sometimes – might be somewhere else, having a drink of water or something like –

When asked about the cheques being back-dated he was unable to explain.

Transcript Vol. 35, page 5264

MR SHEPHERD: Why were the cheques back-dated? Why were they dated January and February and so on?

MR JEDRASIK: Well, I believe those cheques was dated for each month which he was absent at work.

Q: Who told you that at the time?

A: Nobody told me.

Q: Why were they paid 'Organizational'? Why were they made payable to 'Organizational'?

A: I don't know how to explain.

When asked about the organizational account, he said that he did not remember.

Transcript Vol. 35, page 5268

MR SHEPHERD: Well, I appreciate you have said you were confused but did you say this to Detective Sergeant Rajsic: that you were asked to sign the cheques, that you never sign cheques without making enquiry about what the cheque was for and Mr Amis told you these were cheques for monies which were going to be paid into the Organizational Account? Did you tell him that?

MR JEDRASIK: I don't remember.

Sergeant Rajsic attended at the offices of the union on 8 December 1973 after he had spoken to Jedrasik. He spoke to Jedrasik at the Commission offices at 10:00 AM. Jedrasik, in his evidence, stated that he did not discuss the Rajsic interview at a subsequent executive meeting. When Rajsic arrived at the union offices, a meeting was in progress which Jedrasik attended. Rajsic could hear the discussion; the subject was the money that Amis got out of the account which was unknown to the Executive Board. Amis indicated to Rajsic that the Executive were arguing about his rate of pay.

Transcript Vol. 36, page 5301

MR RAJSIC: Mr Amis came out from the meeting at different times to assist us in looking for these records and, at one point when he came out, he just started a conversation and I can only assume it related to what was going on inside the meeting. He said, 'Those guys in there – I can go out and make \$700 a week anytime I want as a cement finisher, so I am sure going to get paid more than any one of those persons per week because I am business manager of the local.' And the shouting continued because Mr Amis' wife, there was some foul language coming through to the front office and Mr Amis' wife made a remark that the walls were pretty thin in the union office.

It appears from the evidence that the officers elected with Amis were

simply stooges for him and had no knowledge of what was going on. They signed what they were told to sign by Amis, and the whole business of minutes and statements was contrived by Amis as a method of getting as much money out of the union as he possibly could. Amis was elected for the unexpired term of almost three years under unusual circumstances. The members were not made aware of the terms of employment of Amis and his wife. The total of the benefits provided for Amis greatly exceeded that paid to other business agents in the industry. He admitted that his tax returns did not reflect his full income; some had been hidden in organizational expenses, some back-dated, and some simply left out. He was arrogant and evasive when he gave evidence before this Commission. I formed the opinion from the evidence that Frank Amis manipulated the procedures and records of Local 598 for his personal gain.

Leonard Ballantyne

In 1971 and 1972, Leonard Ballantyne was the secretary-treasurer and a business agent for Local 562. He had signing authority along with Gus Simone. He was responsible for keeping the books and records of the union. There had been a clerk who had been employed in the office up to the time that Ballantyne took over. He admitted forcing the clerk to leave.

Transcript Vol. 16, page 2195

MR MCRAE: Did you tell her to leave, or fire her?

MR BALLANTYNE: No. It come around later on after we started to organize the Concrete Formers that the problems started that she left, but it was more or less we kind of forced her to leave like at that time. I didn't tell her that. We just got rid of her that was all.

Ronald M. Innes, who operated a bookkeeping service, acted as bookkeeper for Local 562 from 1965. He prepared statements twice a year, in January and July, of the receipts and disbursements. These statements were prepared from the union records. He stated that at first the records were well kept by a trained clerk. On Ballantyne's appointment and with the dismissal of the clerk, the records were kept by Ballantyne and they were no longer good.

Exhibit 253 is a statement of receipts and disbursements for a six-month period ending 31 December 1971. The statement indicates a cash shortage of \$2600. Mr Innes stated that the records were very careless, that Ballantyne acknowledged the shortage and undertook to repay it.

Transcript Vol. 16, page 2150

MR MCRAE: Getting back for a minute with respect to the \$2600 shortage, was there any conversation with Ballantyne about that?

MR INNES: Oh, yes, a great deal, and a great deal of soul searching and looking through and trying to find out on Ballantyne's part and on my part, going over the whole thing again, trying to see where this happened, how could it happen, and he said – well, of course Ballantyne then said, after Gus Simone said, 'We will have to write it off,' Ballantyne said, 'I still owe it so I am going to pay it off.'

Q: He said he was going to pay it?

A: Yes.

Ballantyne admitted that Innes had recommended that better records be kept and he accepted the responsibility.

Transcript Vol. 16, page 2209

MR MCRAE: Did Mr Innes ever tell you that you should have books, that he recommended you get a regular bookkeeping system?

MR BALLANTYNE: Yes he did. Yes.

In 1971, Local 562 rented office space in a building owned by Gemini. In the renovation of the premises there was an expenditure of about \$12,000 and the evidence indicated clearly that there was no explanation for most of the items. In fact, one document was falsified to cover \$713.20.

Transcript Vol. 16, page 2228

MR BALLANTYNE: As I say, I put it down for my own records to explain to the Executive Board and my auditor why I had done it, and I give them the explanation and –

COMMISSIONER: You gave them the explanation –

WITNESS: Yes.

COMMISSIONER: You gave the explanation that is on there?

WITNESS: Yes. The reason why I done that was to show where the \$713 went.

COMMISSIONER: It doesn't show –

WITNESS: Well, the names, as I say, Sergeant O'Brien got the names off me. He has them. I asked him if he wanted help to get the address –

COMMISSIONER: But we are talking about a document on which you say you wrote that down to show where the \$713.20 went. But you agree that that document does not show where it went.

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WITNESS: No, that is true. No, but I meant to show them \$713 that this cheque – I put it down there to keep my records straight for to show the \$713.

COMMISSIONER: You put it down there to cover up the \$713 cheque?

WITNESS: That I paid out, yes, in cash.

T-4 slips are required by the federal government for payments of wages. These were not completed as required for payments made.

Transcript Vol. 16, page 2231

COMMISSIONER: Did you make out T-4 slips?

MR BALLANTYNE: That is up to my auditor. I leave it to him. He looks after all our T-4 slips.

COMMISSIONER: How would he know who to make them out to?

WITNESS: Well, I would have to tell him.

COMMISSIONER: You didn't tell him.

WITNESS: He never asked me.

MR MCRAE: Well, there was a phony invoice there too?

A: Yes. Well, that, yes.

On 11 August 1972 Ballantyne borrowed \$2690.48 from Local 562. He issued the cheque without the authority of the union. He repaid the loan after this Commission had been established, and without interest.

Transcript Vol. 16, page 2245

MR BALLANTYNE: Yes. There was so much on our Executive Board – everybody is not in love with you. I had a couple of fellows that didn't love me and they were always raising heck about this, so I went to the bank. I paid back over \$600. I owed \$2000 and so I went to our bank and I borrowed the \$2000 and put the \$2000 back in the account.

MR MCRAE: We will come to that. That was in March of that year?

A: I believe so. Because I got fed up hearing about it.

Q: By that time it was in the papers and everything?

A: Yes.

Q: The Commission had been established at that time?

A: That's right. That wasn't the reason I done it. I just got fed up with people talking about it.

The inadequacy of the records is shown by the fact that Ballantyne indicated that in 1971 there was a membership of about 800, and in 1972 a membership of about 1200. A rough calculation of 1200 members at \$84 a

year, membership dues, should have produced \$100,800. The amount actually received in dues for the year 1972, was \$53,116. There was an apparent discrepancy which requires some explanation.

Transcript Vol. 16, page 2263

MR MCRAE: You agree that is a very great, almost 100 per cent discrepancy?

MR BALLANTYNE: That's right.

Q: Could you explain how there could be a discrepancy like that?

A: If the members are there and the dues are coming in, it should be there.

That's all I can say. It doesn't go to the union. It goes right to the Bank of Nova Scotia downtown, 2 St Clair.

In addition to the dues paid by the members, there was a check-off of .15¢ per hour per man which was paid to the union by the employers. On a calculation of 75 per cent employment for a period of one year, one would expect receipts of \$234,000. The amount actually received was \$133,000. Ballantyne's explanation again was that there was some discrepancy in the number of men.

The bi-monthly statements require auditing by the internal auditors of the union. When this has been done, the auditors indicate that they are satisfied by affixing their signatures. On several occasions, the statements were not signed. It was indicated that the fact that they did not sign left the inference that they were not satisfied.

Transcript Vol. 17, page 2314

MR BALLANTYNE: At that particular time, as I was saying, there could have been one of those discrepancies in one cheque, or something that I didn't know nothing about.

COMMISSIONER: That's what you said, yes. They would not sign unless something they raised was explained to them –

WITNESS: Yes, that's right.

COMMISSIONER: – and the fact that they didn't sign, leaves the inference there was something they were not satisfied about.

WITNESS: That's true, Your Honour, yes.

It is a reasonable inference that Ballantyne deliberately fired the clerk who had been keeping proper records so that the poor records which followed would not reflect the true picture. He made an improper loan from union funds, and admitted shortages of money. The big discrepancy between estimated revenues and actual revenues gave cause for concern.

Charles Guagliano

Charles Guagliano became the business agent of the Carpenters union Local 18, at Hamilton, in 1954, and in 1965 he became both the business manager and the financial secretary, which offices he continues to hold. His responsibilities included running the affairs of the union, the day-to-day business of the union, management of the office, appointment and supervision of office staff, and managing the union bank accounts.

Accordingly, Guagliano looked after the bank deposits. He was responsible for hiring Mrs Hazel Nash to do the general office work on 1 August 1966. It was her duty to receive and record payments of dues, initiation fees and special assessments made by members of the union. Payments were recorded in a green dues book, and also on a ledger sheet and a head-office sheet. They were also entered in a receipt book of which the top page remained in the book and the copy was given to the payor. While Mrs Nash received most of the payments, payments were also received by Guagliano as well as by the president, Jack Tarbutt, and the other business agent, Tom Fenwick.

Each evening there was a check of the receipts by Guagliano and Mrs Nash. The funds were then turned over to Guagliano who did the banking. According to Mrs Nash, Guagliano kept the cash in his pocket.

Transcript Vol. 53, page 7708

MRS NASH: I would take the money from the drawer, stack the cheques, stack the money, go through this check-off system, and how many cheques there should be and how much cash there should be. He would go through it and okay it, no signature of any type, just an okay. From then on, the money was his.

MR MCRAE: It went into his pocket?

A: Yes, I am afraid it did.

Mrs Nash stated that Guagliano was always short of funds for the deposits which were made at irregular intervals. She said that when the receipts didn't balance with the cash on hand, the receipts were destroyed by Guagliano.

Transcript Vol. 53, page 7711

MRS NASH: My explanation is when this group of papers did not balance up with the money, wherever it came from, out of the pocket or out of the drawer the sheet was just destroyed or like this here shows the coupon was clipped out. In no way should this ever be done in financial recording.

MR MCRAE: You are referring to exhibit 1002 and there is a missing coupon. 4793 appears to be missing?

A: True.

Q: Your explanation for where the duplicate receipt went is –

A: Destroyed.

Q: By whom?

A: By Mr. Guagliano, making up the bank deposit.

Guagliano, on the other hand, said that he never checked with Mrs Nash, but agreed that he should have done so.

Transcript Vol. 60, page 8786

MR GUAGLIANO: No, we wouldn't check it off. Very, very seldom if we ever did. I doubt if we ever checked it off.

He said that he did not keep the money on his person, but put it in the safe each day. He explained his method of depositing money by stating that he asked Mrs Nash to prepare the deposit by cutting out the receipts from the book and listing on a tape the cash and cheques. He would then take the cash from the safe and check the list against the cheques, then count the cash and make up the deposit slip.

Guagliano admitted that exhibit 1046 was a deposit dated 8 May 1970 and contained receipts for work permits back to 30 November 1969, a deposit very much delayed. He considered it a satisfactory explanation to state that the money was for work permits. He also admitted that he did not look at the receipts to check the names with the cheques.

Transcript Vol. 60, pages 8806–7

MR MCRAE: But you restricted yourself to the numerical amount on the cheque as well. You scrupulously avoided looking at the yellow receipt?

MR GUAGLIANO: I don't know why you say scrupulously. It never dawned on me to check the yellow receipts at this point here. I had no reason, no need, I thought in my mind.

Q: Would that not be much easier to look at the yellow receipt and see if this was Mr x's cheque?

A: Not really.

Q: Because the name appears on the receipt?

A: Not really in my mind. It was the tape. It was the method that we had devised and whether Mrs Nash devised that system or not or whether I helped devise it at this time, I don't know, but that was the system we used

and that was the system that I followed and to my mind I think it is a very simple system, it is not complicated. I see now where I should have made cross-reference each and every time.

Leonard Lawrence, a chartered accountant, was retained by Local 18 on 10 August 1970 to investigate the books and records of the union. He found that the system in use was faulty and immediately, in September of 1970, set up a system which he thought would be proper and offer more control. He made a check of the records for a two-week period in July 1970 and found that sets of numbered receipts were missing; duplicate receipts which were marked paid by cheque came in cash; there were stale-dated cheques on hand; receipts were cancelled and no new ones issued in their place; irregular deposit of funds; late deposits of funds (in the deposits were flat sums, for example \$2000).

In Mr Lawrence's opinion, there were many irregularities which led to an inference of misappropriation, but he was unable to place the responsibility.

Transcript Vol. 53, page 7600

MR LAWRENCE: Well, as my report states, there were irregularities and there were a lot of receipts that were never able to be brought forth, and I am basically working on an accounting logic and assumptions that there were misappropriations, and as my report states the method by which I believe misappropriation was done.

MR MCRAE: Do you want to tell us about that?

COMMISSIONER: You are telling us you drew an inference from the facts you observed that there was a misappropriation of funds?

MR LAWRENCE: Correct.

Mr Lawrence made a written report of his findings which appears as exhibit 997, appendix 80. This report covered a six-month period, from July 1969 to January 1970, and the results of this investigation confirmed the previous opinion.

Transcript Vol. 53, page 7607

MR MCRAE: What you are really saying, Mr Lawrence, is your six-month period turned up the same irregularities plus perhaps one or two that were not discovered in the two-week period?

MR LAWRENCE: Correct.

Transcript Vol. 53, pages 7614-15

MR LAWRENCE: Basically, I just concluded by saying: 'This conclusion fits all the irregularities detailed previously and provides the logic as to why pages of receipts were missing, cheques were held for weeks until deposited, and why out-of-town member accounts were used and why the irregularity of receipts marked "CH" when actually paid by cash.' So in effect all I am saying is there were four or five irregularities, and this was the only conclusion logic I could raise as to why a person would be doing it.

MR MCRAE: By telling us how many receipts had been changed from cash to cheque, could you give us any idea that way?

A: No, because I only found about three that had actually been changed. The direct mailing of 300 was at that time an attempt to find enough people so I could set up a pattern of some sort, the number per month or the number, whatever it is, and see the totals, but basically the response to the direct mailing was very poor so I was not able to really expand on my original thoughts.

Because of the fact that receipts were missing and money was redeposited, he was unable to say definitely that there was a shortage of cash, but he does give his opinion that it was logical to infer that there was a misappropriation of funds.

Transcript Vol. 53, page 7653

MR LAWRENCE: In my opinion there was sufficient evidence of irregularities that it would be logical, because of the patterns involved, that there were misappropriations, but if I were asked if I could prove it without a doubt, I would say no, I could not prove it without a doubt but the logic of the irregularities indicated that there were some misappropriations or funds missing, possibly.

He gave his opinion that Guagliano was not involved, but that it was some member of the office staff.

Transcript Vol. 53, page 7667

MR LAWRENCE: Well, my conclusion, just simply by reading a couple of lines here, what I can confirm and again I am talking to Mr Tarbutt here in a personal, confidential letter: '... there is no evidence of any kind that would indicate any degree of involvement in the suspected misappropriation by Mr Charles Guagliano. To further strengthen my opinion Mr Guagliano is not

involved all the evidence I compiled indicates a member of the office staff was the responsible party.'

Guagliano stated that he was of the opinion that the receipts were being used in sequence.

Transcript Vol. 60, page 8816

MR GUAGLIANO: I was of the opinion they were being used that way. That is why I designed it that way. I thought that they were used in sequence of proper numbers.

He said that Mrs Nash suggested cutting the receipts out of the book at the end of the day.

Transcript Vol. 60, page 8833

MR GUAGLIANO: So at the end of the day we would cut these coupons out in order to balance my proper income.

This evidence conflicted with his previous evidence to the effect that the receipts were not checked at the end of the day.

Transcript Vol. 60, page 8786

MR GUAGLIANO: No, we wouldn't check it off. Very, very seldom if we ever did. I doubt if we ever checked it off.

Mrs Nash was fired by Guagliano 10 August 1970. She stated in her evidence that she had never misappropriated any funds, nor did she see how she could have done so.

Transcript Vol. 53, page 7760

MR MCRAE: Is there anything further that you can tell us about it? Perhaps I had better ask you directly, did you ever misappropriate any union funds?

MRS NASH: No, I did not, and I don't see how I could have.

At the time she gave her evidence, she had nothing more to win or lose and I must say that I was impressed with the manner in which she answered the questions both in examination-in-chief and in the very careful and determined cross-examination.

On the other hand, I was not favourably impressed with the evidence of Guagliano. In addition to the inconsistencies in his evidence, his de-

meanour indicated to me that he sought to evade the questions rather than to answer them.

I adopt the position of the accountant, Mr Lawrence, and am unable to state that anyone misappropriated any union funds. I do find, however, that Guagliano was negligent in carrying out the responsibilities of his office. He was in charge of the office and he should never have permitted the slipshod method of handling union funds which amounted to over \$100,000 per year.

William Stefanovitch, the international representative of the Carpenters' union, gave evidence. I was very impressed with the frank and straightforward manner in which he answered the questions that were put to him. He investigated the affairs of Local 18 and reported to the International office (exhibit 1022, appendix 81). Conditions were not satisfactory.

At this time I can only say that Local 18 had not been properly managed. The books and records were inadequate and the handling of money was very bad. Conditions improved when Leonard Lawrence was engaged as accountant. He gave evidence at the hearing in Hamilton and seemed to support the current officers of the local. I believe that funds had been misappropriated but the evidence was not sufficient to identify the culprit.

Charles Irvine

Charles Irvine became the business agent of Local 117, which he organized, and moved on from there to become an international vice-president of the international union. The considerations that apply to business agents would, to even a greater extent, apply to international representatives.

By 1971, there was considerable dissension within Local 117. A brief dated 21 November 1971 on behalf of the president and members, was presented (exhibit 787) to a special meeting of the members. This brief was presented later to a hearing of the international officers. The complaints were to the effect that no elections were being called, that there was not a democratic election of delegates to the international convention, that the members did not receive financial statements, the meetings were not properly conducted, and finally, that because the international vice-president, Irvine, was in conflict with the Toronto Building Trades Council, Local 117 was being excluded from that Council. This brief was prompted by the arbitrary action which had been taken earlier by Irvine.

Emil Burigana was the business agent of Local 117. Elections were called for 26 June 1971. On 27 May nominations were taken. Then, almost all those who had been nominated were declared ineligible to stand for office on very technical grounds; there is no doubt that this was done

because those who were nominated and likely to be elected were in opposition to Irvine and Burigana. In the fall of 1971 the members finally held a meeting on their own and elected officers.

Jose Antonio Martinez was in May 1971 a member in good standing of Local 117. At the meeting on 27 May 1971, he was duly elected to the nominating committee. The nominations were made and no objections were taken to the qualifications. Later, the members were notified that those whom they had nominated were disqualified and that the only ones eligible to run were the incumbent business agents and business manager. The election was to be held on 26 June 1971, but never took place. At a meeting on 7 November 1971, when 300 of the 400 members of the union were present, Martinez was again elected to an election committee.

Irvine then placed the local in trusteeship as of 29 October 1971 and took it over. The parent international union appointed William McMynn and Antonio Mariano as hearing officers to report on the trusteeship. The hearing was held on 22 and 23 November 1971. The international president, Joseph Power, ignored the recommendations of the hearing officers and left the trusteeship in the hands of Irvine. Exhibit 798, appendix 82, is a letter to that effect dated 22 December 1971. Exhibit 816 is a transcript of the evidence of the first day; Exhibit 817 is the transcript of the evidence of the second day. No evidence was presented to support Irvine's charges against the union. He attended on the first day, had nothing to say and did not return.

Exhibit 818, which appears as appendix 83, is a copy of Mariano's report. In his report, Mariano recommended that a temporary, impartial trustee be appointed to conduct nominations and elections for Local 117. This was not done. Irvine was left in complete control.

It was purely by accident that the members learned of the hearing. A notice was sent to Burigana who, of course, did nothing to notify the members. Actually, about 300 members of the union attended and waited in the halls outside of the meeting room while the hearing proceeded. A small delegation was permitted to sit in on the hearing and read the brief (exhibit 787). Subsequently, Martinez commenced a court action to establish the rights of the members which he was unable to continue because of the cost. Finally, practically all of the members of Local 117 joined Local 31 which was in January 1973 certified as the bargaining agent.

Martinez indicated the causes for complaint by the members when he gave evidence.

Transcript Vol. 33, pages 4780-1

MR MCRAE: Was there any other reason for dissatisfaction? Was there any other reason?

MR MARTINEZ: Yes, I believe so. Yes.

Q: All right, the fact that you didn't get the financial reports?

A: The fact we didn't get the financial reports, the convention being called, and never being elected. There were no proper elections.

Q: No proper elections?

A: Yes.

Q: Basically all the things that were set out in the brief.

COMMISSIONER: There was no election of delegates?

Q: How about that?

A: There has never been a meeting since I have been a member of the union to call for delegates for our convention, and that happened in 1971 the same.

Dino Morson, another member of Local 117, was nominated to run as business agent at the May 1971 meeting. He was told he was not eligible, but from his explanation, there appeared to be no valid reason why he should not have been eligible. He was of the opinion that the union was being run by the employers through the United Plasterers' Contractors' Association.

Transcript Vol. 33, page 4792

MR MCRAE: Okay. We have heard from Mr Martinez about the meeting with Mr Charlie Irvine and Mr Burigana in August. Were you present then?

MR MORSON: No. We went along later. I don't know when and we tried to persuade Irvine to have other nominations or to go along with the election because we were fed up with the things that were going on in our local. We don't have the protection, you know. It's like the union was run by the association, not by the members you know.

Q: The feeling was that the union was being run by the association, that's the international?

A: Yes. The Contractors Association.

Another member of Local 117, Attilio Capodilupo, was elected president at the November 1971 meeting. He complained that the union was placed in trusteeship whenever the members made their own decisions.

Transcript Vol. 33, page 4822

MR CAPODILUPO: Yeah that's the reason was said him what we got to make a payment you know what I mean when we get the results or something they say to us I receive the order from Washington to put local in trust anyways.

MR MCRAE: Whenever you tried to do something.

A: Whenever we tried to do something.

He considered himself to be in good standing as he had paid his dues by registered mail. He wrote to the international president, Joseph Power, 3 May 1972 (exhibit 813, appendix 84) and received a reply dated 22 May 1972 (exhibit 814, appendix 85) which stated that less than 20 of the remaining 200 members were in good standing. What a frustrating experience this would be for the members!

Francisco Avoledo, another member of Local 117, gave evidence about the affairs of the union. He was leaving for overseas and offered to pay his dues in advance but the business agent, Burigana, told him that it was not necessary and that he could bring them up to date on his return. He did so and when he was nominated on 27 May 1971 to run against Burigana, he was told that he was ineligible. He had been a member of the Executive Board of the union since 1969. No objection was taken to his nomination at the time it was made.

During this period, Irvine was difficult to approach, but when spoken to, took the position that the letter of the constitution had not been lived up to and that the nominations were, therefore, irregular.

At the meeting held on 7 November 1971 Avoledo was elected business manager (exhibit 800, appendix 86). He read the brief (exhibit 787) to the hearing on 21 November 1971. He told the Commission that most of the members felt that Local 117 had been run by the Contractors' Association.

Transcript Vol. 33, pages 4861-2

COMMISSIONER: I see. Mr Morson stated that one of the things that he complained about Local 117 was that he had the feeling that the union was run by the United Plasterers' Association. Do you share that feeling?

MR AVOLEDO: Well I think that most of the members felt that.

Anthony Mariano, an international representative for the Plasterers' and Cement Masons' Union, gave evidence. Mariano rose through the offices of the Cement Masons' Local 598 prior to becoming an international representative on 22 September 1958. Irvine was the only Canadian who served on the International Executive Board. Mariano was aware of the problems in Local 117, but could do nothing about them because they were within the jurisdiction of Irvine, who personally supervised the two plastering locals in Toronto, Local 117 and Local 48. Mariano looked after the cement finishers and the out-of-town locals in eastern Canada. McMynn was the International representative in western Canada. Irvine, on the other hand, had jurisdiction in the whole of Canada.

Irvine took the position that the trouble was caused by disturbers. He said it was impossible to hold meetings because there were strong feelings. It seemed to me from the evidence that the members of Local 117 were denied natural justice and that their local was being operated in a high-handed manner by the international representative, Irvine, with the assistance of the business manager, Burigana.

Irvine also participated in the attempt to organize the concrete forming workers. In 1965, Irvine contacted the concrete forming contractors and was instrumental in forming the Council of Concrete Forming Trades within the Building Trades Council, but up to 1968 no one succeeded in organizing the concrete forming workers. Irvine considered that the concrete forming workers were a trade in themselves, and was soon at odds with the Building Trades Council.

Transcript Vol. 42, page 6110

MRSHEPHERD: Did you not indeed have one of the locals for which you were responsible, the Cement Masons, as one of the constituent members of the Council of Concrete Forming Unions?

MR IRVINE: That is right. Local 172, which is basically waterproofing, and they do some of the highrise and the swing scaffold work. They were in on the meetings of the Concrete Forming Council.

Irvine stated that when Agostino Simone learned of the failure of the Building Trades Council to organize the concrete forming workers, he asked whether he could proceed. Irvine stated that Simone proceeded on his own to hire Zanini and organize the workers.

Transcript Vol. 42, page 6112

MR SHEPHERD: When did you first hear and how did you hear he actually proposed to start?

MR IRVINE: I think the first time that any of us in the particular building, in the offices, knew that Mr Simone was serious, was one morning Mr Zanini came into the building and we hadn't seen him for a long, long time. 'What are you doing here?' 'I am going to help Gus to organize the concrete forming,' and I think that was about our first official notification that it took place.

Simone, on the other hand, testified that he contacted Irvine and was authorized to hire Zanini to proceed with the organization of the concrete forming workers. Simone knew that it could not be done without Irvine.

Transcript Vol. 41, page 5942

MR SIMONE: I spoke to him and told him about Bruno and he said, leave it with me. He did not say much at the time and then about three or four days later he came back to me and said, go ahead and hire Bruno, and I said I could not pay this guy. I cannot put him right on the union payroll. He said you go ahead, I am giving you \$100 a week. I will make a cheque to you and you pay him. He use to give me a cheque for \$100, out of my own money, I gave \$100 a week and gave Bruno \$200 a week.

MR SHEPHERD: Why did you go to Irvine in the first place?

A: Because I knew without him it could not be done regardless of what Bruno had said.

They proceeded then to organize the concrete forming workers and the method adopted was very simple. Simone and Zanini discussed the matter with DiLorenzo. At that time, the Council was actively trying to organize. DiLorenzo preferred to have one friendly union to a number of aggressive unions.

DiLorenzo assigned one of his top assistants, George Orla, and one of the most popular men in the industry, a crane operator by the name of John D'Alimonte, to assist in organizing. Once it was known to the men that their employer favoured the union, there was no problem in organizing. They were also supplied with a list of the employees. I find it strange that at this time both Orla and D'Alimonte received some remuneration by the union. It was made to appear that they were now full-time employees of the union and were no longer interested in the employer. This subterfuge did not stand up when the matter finally came before the Ontario Labour Relations Board.

Transcript Vol. 42, page 5961

MR SHEPHERD: You said that D'Alimonte was on the payroll of Local 562, having been sent to you by DiLorenzo; is that correct?

MR SIMONE: Yes.

Q: From what source was D'Alimonte paid?

A: From Local 562.

Q: Did Local 562 recover the cost of D'Alimonte's salary from the DiLorenzo Company or any employer?

A: No; we did recover some money and the costs in the initiation fee, some of the costs.

Q: From the DiLorenzo Company?

A: No, all the companies.

Q: Did any company offer you any money to pay D'Alimonte's salary, or Orla?

A: Not that I can recall.

Q: Who paid Orla?

A: I believe I paid for three, four or five cheques; I cannot recall how many weeks, but he was on the payroll of DiLorenzo.

It is interesting that DiLorenzo's competitors Leader and Fran-Kiri, who were satisfied that DiLorenzo ran Local 562, then signed agreements with the Concrete Forming Workers Council of Unions.

Irvine sought to justify the expenditure of Local 117 funds in the organization of the concrete forming union on the basis that it would assist the members of Local 117 in their fight against drywall.

Transcript Vol. 42, page 6118

MR SHEPHERD: I had thought that you would perhaps say I put up the money from the Plasterers' Union to help the Lathers control the concrete forming industry because I wanted to have something to say about the control of the concrete forming industry, and if I control the concrete forming industry and some developer saw it fit to put drywall in apartments, he could get himself a trowel and put up his own concrete.

MR IRVINE: You put it better than I could, Mr Shepherd. Maybe I should let you –

COMMISSIONER: I take it you are prepared to adopt Mr Shepherd's suggestion.

MR IRVINE: That is right.

Transcript Vol. 32, page 4689

MR SHEPHERD: Did Local 117 pay out a sum of money in the order of \$17,000 to finance the organization of a new local called Local 733. Is that correct?

MR BURIGANA: There is a Local 733, yes, but –

Q: When was this done?

A: No, I don't know anything about this because nobody gives any order to Mr Irvine to take out the money from Local 117, and organize. Maybe he had the okay when we were talking at the meeting: 'Okay, you could go out and organize.' Not to use the money.

Q: Are you saying neither the Executive Board nor the union membership authorized the expenditure of the monies of Local 117 for the purpose of organizing another union?

A: No, he has no authority to pay that money.

It is strange, then, that Irvine took the view that he was not active in organizing the concrete forming sector.

Transcript Vol. 43, page 6119

MRS SHEPHERD: Mr Irvine, after you knew that Zanini and Simone intended to organize the concrete forming workers, did you do anything to assist them in this work?

MR IRVINE: As far as my association with it is concerned, my door was open. I was friendly with both of them, and sometimes they came to me with problems about the Labour Relations Act, the international setup as a whole, and stuff like that. I was more – as Simone himself said, I was like a father to him.

Simone had indicated that the business agents of the union members of the Concrete Forming Council were prepared to recognize Local 562. However, that recognition did not materialize and Irvine stated that he did not advise Simone in this matter.

Transcript Vol. 43, page 6139

MRS SHEPHERD: Then I take it that the situation is this: you say that he did seek the support of the business agents to have an attempt made to have the Building Trades Council recognize and support the union, and he was successful in that. Then the Building Trades Council did not support him because the business agents never took the matter any further. When he says that he went and asked your advice and you advised him to stay away from the Building Trades Council, he is speaking complete fiction; is that correct?

MR IRVINE: Yes, that is correct. When he started out he knew and had been advised of the problems that he would encounter jurisdictionally, and all the rest of it, and he chose to go and he went.

Irvine took the position that if Local 562 had joined the Council there would have been a jurisdictional problem with the other unions and for that reason he was better off out of it.

Transcript Vol. 43, page 6140

MRS SHEPHERD: Do you consider now that if he had an opportunity to obtain the support of the Building Trades Council he should have availed himself of it?

MR IRVINE: The way that he started out, and I think I heard him give evidence yesterday that the contractors, forming contractors that he had been talking

to and dealing with, were of the opinion that they needed just one union for the different trades because of the availability of work; that there might not be enough work to keep, say, carpenters going. Probably a carpenter would work three days and what would he do the other two days? And I think he was recognizing that as part of the concrete forming industry, and if it went into the Council there would be jurisdictional problems, and he was better out of it.

Dealing with the negotiations for the transfer of the members from Local 562 to Local 183, Irvine was of the opinion that the effective decision was made in Washington at the International Headquarters.

Transcript Vol. 43, page 6156

MR SHEPHERD: Is it fair to say, Mr Irvine, the effective decision lay in Washington? I appreciate this particular meeting was in Chicago, but the effective power to decide appears to have lain with the respective international headquarters rather than here in Toronto?

MR IRVINE: I suppose it is – I will get hell for saying it as an international man, but it doesn't seem to me that it is, in the standards and ethics that we have put into the labour movement, that somebody 3000 miles away can order men just to be switched from one to the other just like that, without any apparent good reason, and with the added stigma that there was financial matters involved in the switching of the men.

Then, Irvine attended the meeting at the Lansdowne Theatre on Sunday, 1 June 1969, when Simone announced that the men were being turned over to the Labourers' Union Local 183. Simone was surprised when this was not acceptable to the members. Irvine spoke to the meeting urging them to stick together.

Transcript Vol. 43, page 6162

MR SHEPHERD: Did you speak?

MR IRVINE: I think that – I was called on by somebody as sort of the old Brandon Hall glamour or whatever you want to call it, that I had been associated with Brandon Hall, and trying to help the immigrants. I was called on the stand and I think my remarks at that time were that this is a blow to you, but stick together, and as a solid group of men something will come of this and it will be good for you and you will be able to talk to the contractors and get better conditions.

Thus, the Canadian Concrete Forming Union No. 1 was formed with the active assistance of Irvine. Later, however, the Labour Relations Board found that Local 1 was not a properly constituted union. Irvine then continued his efforts through the Cement Finishers' Union Local 733 and he continued to employ Zanini.

Transcript Vol. 43, page 6172

MR SHEPHERD: Now did Mr Zanini do work for any union local at any time – I mean after the events we have discussed, with a local with which you did have some concern?

MR IRVINE: Yes.

Q: What local did he work with?

A: Another new local that was set up, Local 733.

They competed with Local 183 in their endeavours to organize this sector and finally lost out to Local 183.

Transcript Vol. 43, page 6174

MR SHEPHERD: When did it cease to be active?

MR IRVINE: It ceased when 183 signed the five-year agreement, and I think that the men in the concrete forming industry got to that point where for years they had been signing cards, and paying a dollar here and a dollar there, that finally it was just apathy, 'Leave us alone.'

Q: How long did Mr Zanini work for 733? As you say, we have the records, but I do not recall.

A: Four or five months.

Later, the Carpenters' international officers and the Lathers' international officers again made some efforts in the concrete forming sector and Irvine was called to attend a meeting in Detroit, along with Zanini, Burigana, and others. It was agreed that William Stefanovich, the international representative of the Carpenters' Union, and Irvine would be in charge. Irvine arranged a meeting with the concrete forming contractors but by that time the Carpenters had changed their mind as a result of rumours about Bruno Zanini.

Transcript Vol. 43, page 6179

MR IRVINE: I was told that the Carpenters international office was told by Mr Stefanovitch that the carpenters should not get involved in this particular operation because Mr Zanini was Mafia and the carpenters as such could not

afford to be associated with a deal like that. I took it and reported back to Mr Zanini what had been said. But I also could not argue at the time with Mr Stefanovitch because I don't know of any man in Canada that knows more about the Mafia than Mr Stefanovitch, so I didn't argue with him at all about that matter.

Stefanovitch also told us about the Detroit meeting in 1971 between the Plasterers' Union and the Carpenters' Union, for the purpose of organizing the concrete forming sector. As a result of their investigations, the Carpenters decided to stay out.

Transcript Vol. 54, pages 8011-3

COMMISSIONER: Mr Stefanovitch, you are acquainted with Mr Irvine, Mr Charles Irvine?

MR STEFANOVITCH: I am.

COMMISSIONER: He gave evidence before this Commission in January, and he related some events which occurred in 1971 referring to a meeting that was held in Detroit for the purpose of organizing the concrete forming sector of the construction industry in Toronto. Do you recall that meeting?

WITNESS: I do. I was there.

COMMISSIONER: Yes. He says that at that meeting it was agreed that he, using the vehicle of his union, which is the Plasterers Union, and you, using the vehicle of the Carpenters Union, would work together to organize the concrete forming sector. Is that correct?

WITNESS: May I answer it this way, Your Honour. Approaches were made to us on more than one occasion to move into that field, and this was one of them. And when a meeting was concluded I was asked by my general president what I thought, and I told him at that time that I had heard certain pieces of information that indicated that not all was well within that industry; that there was a mess brewing therein, so to speak, and I suggested to him before any moves be made that I conduct an investigation. He told me to do so.

I talked to certain individuals in the city of Toronto, some that are investigators, and within a matter of two to three weeks thereafter I reported to the general president. And I can give you a copy of that report if you so wish it. And therein I said that my findings are such that we stay away from them, as far as we possibly can, and that is exactly what we did.

COMMISSIONER: Did you notify Mr Irvine of that decision?

WITNESS: No, I think he got the message within a week's time, though.

COMMISSIONER: Because he went on to say he had set up two meetings with

contractors in which you were to attend for purposes of preliminary discussions about organizing the industry, and that you just didn't show up at those meetings whereas you were expected to?

WITNESS: They might have expected me, but, as I say, from what we learned it was enough for us to back off and stay away totally. He also made the statement, I am led to believe, before Your Honour, and this is just recently, that Bruno Zanini supposedly went on our payroll. I would like to set that record straight too. At no time was he ever on our payroll in any way, shape, or form.

Subsequently, Mr Stefanovitch was good enough to let us have a copy of his report dated 28 April 1970 and marked private and confidential. That report gives cogent reasons for recommending that the Carpenters do not participate in any union organization conducted by Zanini.

There is a great deal of vagueness and uncertainty about the evidence concerning the union affairs under the jurisdiction of Irvine. It is clear from the evidence, however, that he alone was in complete authority. He treated the locals as personal franchises to be used in any way he saw fit. He claimed to be doing it for the benefit of the men, but as we have seen from the experience of Local 117, Local 97, and Local 48, they have not prospered and the men who were formerly members of these unions are now members of other unions.

Angelo Burigana assisted Irvine in the organization of Local 117. In 1957, he became the business agent and remained in that position until 1973. When asked about the records of Local 117, he stated that they were in the office at 1801 Eglinton Avenue West in Toronto, and that they were last seen in the possession of Irvine.

Transcript Vol. 32, pages 4630-1

MR SHEPHERD: So you last saw the ledger in 1971 at the offices of Local 117?

MR BURIGANA: Yes.

Q: What of the cancelled cheques. Can you tell me when you last would have seen the cancelled cheques relating to the union account or to the account standing in the name of C.W. Irvine In Trust at the Toronto Dominion Bank covering the period after the union was last put into trusteeship under Mr Irvine's direction?

A: Well after the union was led into trusteeship of Mr Irvine I never see it.

Q: You never did see it?

A: No, sir.

Q: So that would be in 1971 as well.

A: Well you can say more or less early in 1972.

Q: Yes. Who kept the financial records and the books up until the time that the company was last put into trusteeship in the autumn of 1971?

COMMISSIONER: The union –

MR SHEPHERD: The union, I am sorry, Mr Commissioner.

WITNESS: Well we had a secretary. She was doing all the work. She kept all records you know, general ledgers and so on.

Q: And when the union was placed in trusteeship (and I will come to that a little later) in the autumn of 1971 who kept the books after that?

A: Mr Irvine.

Q: We have not found Mr Burigana any financial statements for this local union. Do you know whether there were any financial statements made up from time to time?

A: Well the financial statement was made up every year, once a year at least.

Q: Yes. Do you know where those would be?

A: Must be in Mr Irvine's hands some place. His house or the office. I don't know.

Q: No regrettably not. Well you don't know where they are anyway?

A: No.

Q: If they were in the office or in Mr Irvine's hands?

A: No.

According to Burigana, when Irvine took over as trustee he had full power.

Transcript Vol. 32, pages 4640–1

MR SHEPHERD: Now tell me what the effect is of a union being placed into trusteeship under the constitution of your union? What happens to the elected officers?

MR BURIGANA: Oh when the union is in trusteeship, the officers in the union – they do anything because the officers under Charlie Irvine (and he belongs to the international), he is vice-president and so he has full power to do anything he wants to do.

Irvine took over as trustee of Local 117 on three occasions. The first was in 1965 because of disagreements with the Executive Board. The second occasion was the next year when the members refused a proposed agreement with the contractors.

Transcript Vol. 32, page 4649

MRS SHEPHERD: And was its reasons for being put back into trusteeship related to this disagreement that had broken out among the membership?

MR BURIGANA: That was reason. I believe Mr Irvine went to Washington on problem and maybe he asked, so this is –

The third occasion was after the nomination meeting of 27 May 1971 when a slate of officers who were in opposition to Irvine and Burigana were nominated.

Transcript Vol. 32, page 4667

COMMISSIONER: Did he issue a blanket order not to accept dues from anyone or when a letter came along did he see who it was from and say well don't take that one?

MR BURIGANA: No. This is what he said. Now I cannot recall if he said it to me or to the girls that pick up the mail every morning.

COMMISSIONER: Yes, but this was an order, standing order not to accept from anyone?

WITNESS: No, only those –

COMMISSIONER: – known as troublemakers?

WITNESS: Yeah.

COMMISSIONER: Those who were nominated for office?

WITNESS: Well in this case it happened two gentlemen, they were nominated for an office.

COMMISSIONER: Yes, but – are you suggesting that he considered those who were not nominated for office to be troublemakers?

WITNESS: Well they were, yes.

Burigana stayed on to assist Irvine in running the affairs of the union and on Irvine's instructions Burigana made monthly returns to the international offices and wrote up counterfeit receipts. Exhibit 786 is a bundle of receipts dated from June 1971 to April 1973 and, according to Burigana, that money was not actually paid. Local 117 is now down to 12 members as of the date of the hearing.

Transcript Vol. 32, page 4685

MR SHEPHERD: Approximately how many members does the union have now?

MR BURIGANA: I don't know now because Local 117, I have very few members – few of them are working in Hamilton – let's say, maybe up to now I got about a dozen members. Maybe I going to have about 20 or 25 in a few days because we going to come in to pay dues contractor going to start picking up some jobs because I have about five contractors. They sign the agreement with Local 117.

During this period, any cash that was paid into the union was kept by Burigana to compensate him for expenses and the cheques were turned

over to Irvine. This was done on the instructions of Irvine according to Burigana.

Transcript Vol. 32, page 4671

MR SHEPHERD: Now help me on this. I suggest that the imperfect records which are available to us show (and you have yourself in fairness to you pointed this out to us) show that dues were received from members during the period from November to June payable partly in cash and some of them payable by cheque, the greater number payable by cheque and you told us and called it to our attention that you had kept the cash that came in and gave Mr Irvine the cheques. Why did you do this?

MR BURIGANA: Because I complained to him because I want my money every week, expense and everything so he told me verbally when you collect the money he said you give me all cheques to me and you keep the cash you know for the expenses.

Burigana filed a memorandum that he submitted to Irvine in June of 1972 which he says accounts for the cash he received and shows a balance owing to him. This memorandum is filed as exhibit 784, appendix 87.

Agostino Simone

Agostino Simone, as we have seen, was the business agent for the Lathers' Union Local 562. His participation in illegal activities has been set out. He told of other examples of improper behaviour by a business agent.

Transcript Vol. 5, pages 172-3

MR SHEPHERD: And do contractors, from time to time, call up the business agent and ask for preferential treatment? That you should do something for them that you don't do for their competitors?

MR SIMONE: Yes, they ask.

Q: And would a contractor – we will go into these matters in due course – would a contractor ever call up in a dispute with some competitor and ask you to go and cause trouble to the competitor?

A: Yes, sometimes they come up with all kinds of excuses.

Q: Yes. And does the contractor sometimes ask you to give him assistance in getting contracts or get information about what contracts are likely to be called and the like?

COMMISSIONER: You mean on building contracts?

MR SHEPHERD: Yes, building contracts.

WITNESS: It could happen, but I couldn't say.

In 1972 Simone accompanied Cesido Romanelli and others to Ottawa. This was outside of the scope of his duties as business agent for Local 562 and, from the evidence, it was clear that his presence in Ottawa was to assist Romanelli in imposing piecework in drywall construction. That was an improper activity for a business agent.

In the chapter on payments, I reported on what appeared to be a transfer from Romanelli to Simone of an interest in his business. Whether Simone actually had an interest in Romanelli's business may only be known for sure by the two of them. There were some indications that he did. There is no doubt that if he did have such an interest, it would be quite improper. With that conflict of interest, one would never know whether he acted in the interest of the employer or the employee.

Apart from the instances of payments which were made to Simone at the meetings of contractors, it seems that these meetings were generally open to him. He acted as a member of the association. In fact, according to some evidence, he was given the responsibility of policing the members of the association on the question of pricing. This would be improper conduct for anyone.

Simone, in his capacity as a union business agent also acted improperly in the following incidents. (1) In connection with the Concrete Forming Division of Local 562, in 1968 Simone, with the knowledge and consent of the international vice-president, Irvine, proceeded to spend \$22,000 of Local 562's money for that purpose. Local 562 did not authorize the expenditure and it has never been recovered. (2) In 1971, when the union rented space in the Gemini building on a short-term lease, the sum of \$12,000 was expended in renovations. There was no proper accounting for the expenditure. Simone was in charge. (3) By cheque dated 12 September 1972 in the sum of \$400, he arranged to have the union pay that amount to cover damage to his car. That was an illegal expenditure of union funds.

Bruno Zanini

Bruno Zanini's interest in the labour movement began in 1955 in the residential sector of the building industry. He began then as president of Local 35, and when that union merged with Local 2 of the Bricklayers in 1957 he became the business agent. He was very active with Charles Irvine during the Brandon Hall period in the early 1960s. He had a criminal record, the most recent conviction being in 1965. His record appears as exhibit 917, appendix 88, and his photograph as Figure 22 (exhibit 1067, appendix 89).

In 1968 he participated in the organization of the Concrete Forming



Figure 22 (appendix 89 exhibit 1067)
Bruno Zanini

Division of Local 562. At that time he engaged in the illegal use of the employers in the organization of the men. His arrangement with Simone in the organization of Local 562 was that he would worry about the men while Simone would worry about the contractors.

Then, during the discussions pertaining to the transfer of the men from Local 562 to Local 183, he was very concerned about receiving some payment in consideration for the transfer. When he realized that this would not be possible, he decided to form the Canadian Concrete Forming Union Local 1. Accordingly, while Simone was in Chicago, Zanini was busy in Toronto setting the stage for the meeting which took place on Sunday, 1 June 1969, at Lansdowne Theatre. That meeting refused to go along with Simone's plan, and Zanini, with the assistance of Irvine and others, was able to form Local 1. The Ontario Labour Relations Board put an end to this union and Zanini then formed the Canadian Union of Construction Workers, from which he was dismissed in 1971.

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Transcript Vol. 45, page 6419

MR ZANINI: Along comes January. I heard from the business manager of the Canadian Union of Construction Workers that he is to let me go. And there is no money in there. And behind the scenes it is because of this Mafia implication of Dr Morton Shulman. And that was the end.

MR SHEPHERD: So you were dismissed then from that union?

A: 1971.

His next venture was on behalf of Local 733.

Transcript Vol. 45, page 6422

MR ZANINI: When it was over he decided, Mr Zanini, would you be interested to lead these people up again? I said I would. He said I will guarantee you wages for one year.

MR SHEPHERD: Who said that?

A: Joseph Power and Mal Roots, who is vice-president of the OP and from thereon immediately we went to work.

Q: Yes. Was this under 733?

A: 733. We didn't know what it was until they set the Charter.

He signed up a number of men but was not successful in negotiating any agreements. He was laid off in October 1971. Then followed the shooting event which took place on 23 August 1972. Zanini was of the impression that it had something to do with his activities at that time in reporting that the rights of the workers were not being properly enforced.

Transcript Vol. 45, page 6435

MR ZANINI: He told me these are the companies that were all suffering for some unknown reason, and I told him that I'm gathering information up, and I am going to call a meeting and I am going to see what the men want to do. These contractors that were suffering greatly and seemed to be sympathetic, and on the other side are the ones that don't want –

MR SHEPHERD: This is the list supplied to you by Mr DiBattista?

A: Yes, and I marked down who was for and what is wrong with the industry.

Zanini pointed out that in the concrete forming organization for Local 562 they received lists of the workers from the employers who were prepared to co-operate.

Transcript Vol. 47, page 6794

MR ZANINI: Yes, different contractors submitted a list.

MR SHEPHERD: Yes.

A: With names and addresses of their employees.

COMMISSIONER: You got lists of names and addresses not only from DiLorenzo but from other contractors as well?

WITNESS: Yes, that is correct, not just Nick DiLorenzo, all of them.

He agreed that the terms proposed by Local 562 were favourable to the contractors.

Transcript Vol. 47, page 6803

MR SHEPHERD: The position then must have been that the union put forward terms which obviously the contractors found acceptable and in order to get those terms the contractors supplied lists of their employees to Local 562 so that Local 562 and no other union would have the men organized and that contract which had been agreed upon would be signed. Is that about the situation?

MR ZANINI: That is what it looks like to me, Mr Shepherd. What else.

The employers' representatives went so far as to attend the meetings and assisted in signing up the men.

Transcript Vol. 47, page 6816

MR SHEPHERD: I think we had just come, Mr Zanini, to the meetings of the 16th and 17th of October and the evidence has been that the first meeting was for workmen employed by companies other than the DiLorenzo group and the second meeting was for the DiLorenzo employees, is that your recollection?

MR ZANINI: That is correct.

Q: We heard evidence generally to the effect that the foremen and superintendents of the employers, or some of them, attended at the meeting and assisted in getting men to sign applications. Did that occur?

A: Yes, that did occur.

These meetings were held on 16 and 17 October 1968. Big John D'Alimonte attended the meeting on 17 October and signed everybody up.

Zanini was not a satisfactory witness. His evidence was vague and inconsistent. He had illusions of grandeur trying to leave the impression

that he alone could organize unions for the benefit of the workers. The evidence indicated that he was interested in organizing unions simply as a means of making money for himself. He was not concerned about the methods that were used to achieve this end. Typical of his evidence was his explanation of the violence in the concrete forming sector which occurred to those companies that would not enter into an agreement with Local 562. Zanini gave the following explanation;

Transcript Vol. 47, page 6832

MR ZANINI: I don't have any facts or any evidence to substantiate that, Your Honour, only that they are the rivals to 562. There are many unions that it is possible could have did this just as easy and I do think in my mind that the building contractors are in on it and some hard core unionists, but just who, what evidence that I can offer, I cannot offer or prove it. I have my suspicions, but that is not enough, that is not proof.

Then, in connection with the transfer of the men from Local 562 to Local 183, he sought to blame Simone.

Transcript Vol. 47, page 6848

MR ZANINI: He had a cash register mind. He didn't do nothing for nothing. From what I got to learn about him later.

Transcript Vol. 47, page 6850

MR ZANINI: Yes, and he says there was so much money in it for him. He asked me how much is this position worth? He said he would get \$25,000 for it.

However, Zanini's attitude comes through in his reply that the amount should be \$40,000.

Transcript Vol. 47, page 6851

MR ZANINI: I said you want my opinion? I says you're a fool. Your position as business manager of the Lathers is worth more than that. Well, give me a price. Well, Gus, I said, there is no price. It depends on principle. If you believe in helping your fellow man, if you are going to go to Washington to be running these things here, you have got to think it over and do the right thing. And he felt - I said if you want my opinion, \$25,000 is nothing. To be very honest with you I think I says, I told him \$40,000 is more appropriate for your position, and that is exactly what had happened.

After the meeting of 1 June 1969, when the Canadian Concrete Forming Local 1, was organized, they had difficulty in negotiating with the contractors who wanted agreements with international unions.

Transcript Vol. 47, page 6890

MR ZANINI: Mr Cumine insisted that we get that discharge from Gus, despite the fact that we went out there and did it all over again and despite the fact that 562 was not legal. We did it just to make certain. And when we got this from Gus, a week later we approached letters to the contractors to sit down with us. They would not sit down with us because they wanted an international union – that's what Mr DiLorenzo said – and we were called chickens.

Zanini then, commencing 1 July 1969, called a work stoppage of two weeks. This had the effect of forcing an agreement on 16 July 1969 (exhibit 920). The union tried to get into the Building Trades Council but were not accepted because form setters were not recognized as a trade. We know that the Trades Council was open only to locals whose parent union belonged to the AFL-CIO organization. The Building Trades Council then called a work stoppage on 25 August 1969, which also lasted for two weeks. There was a considerable amount of money spent by the Building Trades Council to support this work stoppage. Then the Council of Concrete Forming Trade Unions, by applying to the Ontario Labour Relations Board, got an order terminating the agreement which had been signed by Local 1. After that a meeting was called where the Canadian Construction Workers Union, under John Meorin, proposed to take over the membership. Zanini explained that there were personality differences between himself and Meorin which prevented the takeover. Apparently, he did receive \$7000 from Meorin, which he said was disbursed for expenses, and Meorin has sued him for the money paid.

Zanini told of attending the meeting in Detroit between the Carpenters (Stefanovitch), and the Cement Finishers (Irvine), and of the fact that the plan was dropped because of the accusations against him.

Transcript Vol. 47, pages 6934–5

MR ZANINI: Everybody was there except Nick DiLorenzo and DelZotto.

MR SHEPHERD: What would the largest company be which was there?

A: At that time I think DiMateo would be the largest, because Nick DiLorenzo was in receivership; he was busted up.

Q: Yes.

A: So therefore, I think he did have – some of his companies, he did have one representative, Mr Weinstein, Phil Weinstein.

Q: Yes.

A: They were most anxious, because they heard of the Carpenters' and Plasterers' and Cement Masons' union getting together to make this a success, and they got more confidence and said that they would sign an agreement with our Canadian Concrete Workers' Union, knowing that these are the people behind us.

Q: Yes.

A: As a result Mr Stefanovitch didn't show up.

Q: At the meeting?

A: Right.

Q: Yes.

A: So I apologized and I told them we could meet another day, perhaps something happened and they would meet again. So they agreed that they would meet again Wednesday. We met again Wednesday – no Stefanovitch, no Carpenters.

Q: Had you made an attempt to reach Mr Stefanovitch?

A: Yes, and there was no way I could get him. And about a week later I heard that he told people that I was Mafia.

Q: Yes.

A: And that's where it just died.

He then went to work with Meorin on the Canadian Union of Construction Workers and, while they signed up some men and got some agreements, they were unable to continue successfully. This was in 1970, before Meorin sued for the money advanced.

On 12 March 1971 he began to work for Local 733. After 733 was washed up, Zanini again tried to organize a Canadian union, but was unable to do so. He then tried to get employment with the Association of Concrete Forming Contractors, but that fell through. If he had succeeded, he would have been serving interests which did not coincide with those of the workers whom he professed to support.

By this time, he was grasping at straws. He spoke to Stefanini of Local 183 and to Meorin of the Canadian Construction Workers Union. He was apparently given the run around and nothing developed.

It was obvious throughout that Zanini's one concern was to provide himself with funds from union organizations. While witnesses have indicated that Zanini, at one time, had considerable influence with the men, due

to his oratorical ability, it seemed to me that he did not have any concept of the duties and obligations of a business agent, nor of the principles involved in labour-management relations. In his role as a union business agent, there were many instances of improper conduct.

Welfare funds

Local 562

The collective agreement (exhibit 288) provided for the payment of forty cents per hour per man to a welfare fund plan which was administered by Russell M. Tolley & Associates. The trustees were Agostino Simone and Leonard Ballantyne, as representatives of the union, and Domenic Valsi and Mario Palma as representatives of the employers.

Although the trustees met a few times a year, the fund was, in practice, administered entirely by Tolley and Associates. There were no controls to ascertain that the companies made the proper remittances. Only if an employee complained that he did not have the credits to which he felt he was entitled would an investigation be instituted. With 300 employees, there was approximately \$24,000 per month paid into the fund. The fund simply purchased welfare benefits for the employees through regular insurance companies.

The trustees habitually attended two seminars a year: one in Canada and one outside the country. They were paid very liberally for their attendance at these seminars, which were usually held in vacation spots like Jasper Park, San Diego, Vancouver, and Bermuda. The stated purpose of the seminars was to educate the trustees in the investment and use of pension funds. They were attended by union welfare fund trustees from Canada and the US.

Richard Cuttle, a chartered accountant with Touche Ross, gave evidence. He acted on behalf of the Commission in the investigation of Local 562. Exhibit 189 is a collective agreement between 562 and Metro Lathing Association. It provided for a check-off payment of fifty-five cents per hour per man to be paid to Russell M. Tolley & Associates: thirty cents per hour for welfare; ten cents per hour for supplementary unemployment insurance; and fifteen cents per hour for additional dues. The members paid an additional seven dollars per month in union dues. The check-off payments were made by the contractors. Cuttle found, however, that there were delays in remitting to Tolley, then there were delays by Tolley in remitting to the union the dues portion of the check-off. There was no verification of the payrolls of the employers to confirm the returns.

Transcript Vol. 15, page 2041

MR CUTTLE: The condition of the records or the degree of information which was available through them did not allow a 100 per cent verification in this respect. We had to rely on estimates of what we felt was reasonable in the circumstances.

There was no provision in the agreement for a method of checking.

Transcript Vol. 15, page 2046

MR MCRAE: I see. Now, what control if any does the union have over the recording of the number of hours and, consequently, the amount of money due to the union welfare fund or to the Tolley's fund and the check-offs? Is there any control in that respect?

MR CUTTLE: The union receives a copy of the contribution report, which is their record of the hours worked by a member of a particular contractor but they have no control to determine that the information which is recorded on that contribution report is correct. They are not able to ascertain what amount of money they should receive from a contractor for check-off, because they have no method and no access to information to verify the number of hours worked by an employee.

There were, from time to time, substantial sums of money which were not paid on time, and these delinquent payments were tolerated.

Transcript Vol. 15, page 2044

MR MCRAE: What about the union? Were they getting notified of the late payments or were they aware of them or what?

MR CUTTLE: The union would be notified because two of their officers were also trustees of the benefit plans. A delinquency report would periodically be submitted at a trustees meeting. The comment was made during the month that we were able to review that the delinquent's report was reviewed and corrected.

Local 117

Charles Irvine gave evidence about the establishment of a welfare fund for Local 117. Mercer and Company were engaged as the administrators. When Local 117 was placed in trusteeship, as it was from time to time, Irvine, as the international representative, endeavoured to have some control over the welfare fund. At that time the trustees were Emil Burigana for the union and Donald Tintinalli for the employers. Exhibit 836 is a copy

of the agreement and a declaration of trust dated 19 July 1973 between the United Plasterers and Local 117.

Irvine took the position that when the men stopped paying their dues they had lost their entitlement to benefits even though they had contributed and had credits to their accounts.

Transcript Vol. 36, page 5421

MR IRVINE: The plan has gone on, and naturally the men who were rebelling against the administration of 117 were not paying any dues and they were not being covered because the agreement, the working agreement and the trust indenture says that a man must be a member in good standing of the Local to acquire the benefits. So these men were not paying their dues and gradually were losing what they had in their bank hours in the welfare plan. So that we again went to the Association to try to negotiate an agreement.

By this time the union membership had been reduced to twelve and, at the suggestion of this Commission, Irvine agreed that the money should be held in trust until it could be determined who was entitled to it.

Transcript Vol. 36, page 5426

MR SHEPHERD: Would you be satisfied, as the international vice-president, that the money be turned over to the public trustee of Ontario?

MR IRVINE: Certainly.

James McAteer was assistant vice-president of William Mercer and Company, the administrators of the Local 117 trust fund. Exhibit 835, which appears as appendix 90, is a statement of the trust fund indicating a balance of \$138,866.76. There is a judgment against the trustees of \$10,341 and costs.

Transcript Vol. 34, page 4939

MR MCATEER: There was an action, Mr Commissioner, against the trustees which was prosecuted in the Supreme Court of Ontario in September of 1972 for an alleged breach of contract between the trustees and another administrator. It was a judgment at that time of \$10,341 which was appealed and cross-appealed and heard in October of 1973 and the appeal and cross-appeal was rejected.

According to McAteer, the membership was reduced to fifteen and he undertook to supply a list of those members. He stated that he was able to

determine the amount contributed on behalf of each worker. He stated that he still received payments on behalf of three employees. Under the terms of the arrangement, Mercer disbursed the funds on the authority of the trustees. These funds purchased insurance premiums to provide the benefits for the members. The benefits were available only to those on the list supplied by Burigana.

Transcript Vol. 34, page 4950

COMMISSIONER: The sums can only be disbursed by Mercer?

MR MCATEER: Yes.

COMMISSIONER: And on what authority does Mercer disburse funds?

WITNESS: Well, we have an authorization from the trustees to disburse funds from the trust fund for legitimate expenses. This is done by resolution of the board appointing the pool of Mercer officers, including myself. We are the only persons at present authorized to sign cheques and the authority given to us is under the declaration of agreement and trust, where we are able to sign cheques to provide the necessary payment of expenses for on-going operation of the trust fund, which would essentially be the payment of insurance premiums.

MR MCRAE: To the claimant?

A: No, not to claimants; to the insurance companies.

Trustees were paid forty-five dollars for each meeting and were entitled to attend two educational conferences per year, of the type described earlier.

In 1973, \$360 was thus paid for attending meetings and Burigana was paid \$2972 for attending two conferences. The fund was under the control of the trustees, although managed by Mercer.

Transcript Vol. 34, page 4962

COMMISSIONER: And verifying the existence of the capital fund, but you don't actually have that capital fund in your own control?

MR MCATEER: No.

COMMISSIONER: It is under the control of the trustees?

WITNESS: Yes, that would be correct. The assets of the fund are in cash, in savings and current account in a bank, and, for the larger part, in guaranteed investment certificates. Now, the name of that account is in the name of the board of trustees of Local Union 117, benefit trust fund. Now, the relationship of Mercer to those assets is a matter of facility.

Irvine made attempts to become a trustee of the fund by virtue of the fact that he was the trustee for the Local when it was placed in trusteeship.

Transcript Vol. 34, page 4965

MR MCRAE: Was there some effort recently to have Mr Irvine – did he attempt to become a trustee of this fund recently?

MR MCATEER: Yes.

Q: When was that?

A: I believe there were two such moves, Mr McRae, one I think having been back in 1972. I have correspondence. Yes, there was an effort in October of 1972 by Mr Irvine which Mr Irvine subsequently withdrew, and took the position that the board would continue with the one employer, one employee, trustee, and then there was another effort very recently, about September of this year, again unsuccessful.

In 1970, Emil Burigana attended an educational conference in Hawaii. Burigana could only affirm that there was over \$100,000 in the welfare fund and that the membership was down to about fifteen. He said that the government or the Royal Commission should do something about it and that he had no objection to the public trustee holding the funds until the matter was finalized.

Transcript Vol. 38, page 5615

MR SHEPHERD: If the other trustee, and all the parties agreed, would you be agreeable to those funds being held by the public trustee, that is a government official, until a court order or authority could determine where the money should go?

MR BURIGANA: I have no objection about it.

He later refused to live up to this suggestion. (See exhibit 1075, appendix 91, which is a letter from his solicitors indicating that the funds be left as they are.)

There was also a question of an arrangement whereby men who were employed in the state of New York would have stamps forwarded to the office of Local 117. There were payments for seven men amounting to \$1568.40.

Transcript Vol. 38, page 5613

MR SHEPHERD: And you say there are seven men who have not been paid, although Local 117 has received the funds.

You say the total is \$1568.40, and you say Mr Irvine has control of the money. Is that correct?

MR BURIGANA: Correct.

This money should have been paid to Mercer when it was received, but apparently that had not been done.

Transcript Vol. 38, page 5611

MR BURIGANA: I think Irvine when he became trustee he takes away everything from me, so he got this money too. This is why the last time was, I believe, June-July of this year, I called a few guys to come in the office because we got the money. So a few of them, they got the money, but they still got dues. They are not paid yet, so I called everyone that if they wanted to get the money, they had to see Charlie Irvine because he's got the money. I don't know if they did or not, because the last time I got in touch with them was a couple of weeks ago. He still didn't pay the money to these guys.

Burigana ceased to be connected with the union after July 1973. It is strange indeed that he should remain as a trustee of the fund to represent the employees when he is no longer connected with the union.

Local 598

Shahid Minto, the chartered accountant who investigated on behalf of the Commission, had been looking into the affairs of Local 598. He found that the amount that should have been paid in by an employer if Anthony Amis, the acting business manager, had been employed as a foreman, was in fact paid directly to Amis and not to the administrator of the welfare and pension fund. This appears in exhibit 848, the account of the Minto investigation.

Amis commented on this payment, stating that he was not satisfied with Tolley's administration and was reluctant to be part of the plan.

Transcript Vol. 35, pages 5183-4

MR AMIS: Attending meetings of the trustees of the welfare, I found that the minutes and everything is cut and dried. You walk in there and that's the end of it. Also, that things that were stated at the two trustee meetings that I was there, I requested a trust – a copy of the trust document, a copy of the welfare booklet that should go to my members and they said they hadn't made them up for years and there were some changes in them and I said: 'Well, these things should have been made up and changes put in to send to the members,

so they would have some idea of what benefits they've got.' I pursued Mr Dobie on numerous occasions through his office for these booklets. I promised our members – if you look through the minutes – told him we had met and we had promised them these booklets were coming. When I see this and numerous other things going on and rumours, I was reluctant to be any part of the plan and I explained to the Executive Board.

In our quest for trying to straighten out the welfare benefits for all members, we also ran into contractors who had not paid their welfare to the welfare companies for five and six months. One of them was a very large company and when I went after Dobie about trying to find out if this company had paid, the company had deceived us. They sent a copy to us explaining they had sent the cheque but they didn't send the cheque and they didn't send copies in to Dobie. All of a sudden the company becomes alert, is warned: 'Quick, Amis is checking into your account.' Then a cheque comes in and everything is squared up.

Local 183

It was interesting to have the comments of John Carlo Stefanini, who was the business manager of Local 183 and is recognized as one of the leaders of the trade union movement in the construction industry. He did not feel that welfare plans have any place in the construction industry.

Transcript Vol. 49, page 7230

MR CHARLEBOIS: And of course the union is aware of union dues or welfare benefits or things along this nature, which are supposed to be paid and which don't get paid.

MR STEFANINI: We don't have welfare benefits.

Comments

Philip Musselman, a chartered accountant with Touche Ross, made some studies on behalf of the Commission in connection with union welfare plans. Exhibit 993, which appears as appendix 92, is a summary of the problems encountered. His examination was confined to the sectors of the construction industry under investigation. The plans which he examined had a number of glaring weaknesses which he listed:

1 / *Control*. There was a lack of control over receipt of payments by employers: (a) the administrator had no knowledge of the contributors; (b) no one was fixed with responsibility for collections; (c) no remedy was provided for late payments.

2 / *Trustees*. The employees were usually represented by the business

agents and the employers by representatives of contractors' associations. There was no apparent concern about qualification or interest.

3 / *Administration*. The professional administrators, when used, were proficient and capable, but were limited by the scope of the agreement, under which they were retained.

4 / *Vesting*. The agreements failed to take into account the ownership of the funds. There was no provision for portability or vesting.

Mr Musselman made recommendations for the improvement of the administration of welfare funds on behalf of employees. His observations were based on the funds examined as set out in his report which appears as appendix 92. He indicated that administrators of funds were handicapped by a lack of information as to the identity of employers and the details of contributions to the funds. The administrators were responsible only for funds received and the trustees were absolved from responsibility for collections. He found that unions and companies did not have equal representation as trustees. He suggested that employees and employers be equally represented and that the trustees assume some responsibility for collecting the contributions. That employers be required to report to the employees at each pay period and that the administrator be required to report to employees quarterly. Welfare funds should employ the services of professional auditors who would have access to the payroll books of employers and be required to advise on contribution revenue. He suggested that performance bonds be posted by trustees, administrators, and delinquent employers. He also recommended that all persons with any fiduciary relationship to the fund, such as trustees and administrators, make full disclosure of all commissions, gratuities, and other benefits received.

The other serious problem raised by Mr Musselman dealt with the vesting and portability of the funds. He found that the plans did not provide for complete vesting in the employee of monies contributed by the employer. In some cases, vesting did not occur until after five or ten years of service, and benefits were tied to union membership status. He also found a lack of portability between funds of different unions. He suggested complete vesting in individuals as monies are contributed together with portability of benefits as measures to alleviate many of the inequities.

He also made observations about the qualifications of trustees, publication of welfare fund records, expenditures for conventions, and the state of fund agreements. These comments appear in his report.

Larry Thomas, the secretary-treasurer of Russell M. Tolley and Associates, gave evidence. This company administered welfare funds, mostly

in Ontario, and the majority of their clients were unions. He agreed that the basic data in the Musselman report (exhibit 993) was correct. He admitted that control of receipts was a problem, that they did from time to time, supply lists of delinquent payments to the union and write to the companies, but quite often they did not know where the men were employed.

Transcript Vol. 50, page 7326

MR THOMAS: It is a problem area. We are always looking for areas to institute, to put in special controls for these areas. As far as contractors paying money we do supply the union and the trustees with a copy of the delinquent letter each month, all the contractors that have not paid for a certain month. We also send letters to those contractors asking for the monies that are due at that point in time.

MR MCRAE: At the end of each month?

A: At the end of each month. It is quite possible that these contractors do not have any employees at that time and will write back and say no employees.

Q: Right.

A: As far as that goes, I think our basic problem would be areas where we do not know when the men are employed and with which contractor each month. We have no way of telling. The unions follow up but mostly on delinquents of any situation. If they know where the men are, it is quite easy but the men could be anywhere in the city.

Thomas agreed that it would be an improvement to have access to the employer's payroll.

Transcript Vol. 50, page 7327

MR MCRAE: Mr Musselman recommended that the auditors of the welfare funds be given access to the payroll books of the employers and to require the auditors of the welfare funds to state an opinion on contribution?

MR THOMAS: This would be the ideal situation.

He was of the opinion that there should be some responsibility on the part of the trustees on the question of tardy payments.

Transcript Vol. 50, page 7329

MR MCRAE: Mr Musselman's next recommendation is that trustees, unions, and employers be required to accept the responsibility for controlling the amount of receipts and the tardiness of the receipts. What is your opinion about that?

MR THOMAS: The section in the trust agreement that he referred to in the Lathers is a normal section in any of the trust documents. That is a document drawn up by a lawyer in that area. He has put that in, and the lawyer that did draw up that agreement is very well known in the trust field, and this type of trust, and he does not seem to have any objection to it and he thinks it's proper. But I think there should be some responsibility put to both the trustees, both management and union, in the collection of these monies. Whether he can do it or not, I'm not sure, whether it would be a very large problem, or maybe someone would not want to serve as a trustee if they got more and more involved in that area.

He showed that agreements can provide a penalty clause for late payments.

Transcript Vol. 50, page 7333

MR THOMAS: Some trust documents and collective agreements have a penalty clause – 2 per cent per month.

He added that some funds had arranged to have semi-annual statements sent to the employees. He was of the opinion that vesting and portability should be the subjects of a detailed study.

Mr Thomas pointed out, however, that the trustees must represent the union and the employer, and that they are best aware of the kind of welfare benefits that should be provided. Professional advice can be made available to them. He agreed that the trustees and not the administrators were in control of the funds.

Transcript Vol. 50, pages 7348–51

COMMISSIONER: Do you sign cheques by virtue of the fact that the funds are in your control or by virtue of the fact you have been given power of attorney to sign?

MR THOMAS: We have been given power of attorney to sign.

COMMISSIONER: Then if you have only been given power of attorney to sign, that has been given to you by the trustee?

WITNESS: That is right.

COMMISSIONER: And the trustees can change that when they see fit?

WITNESS: Yes, they could.

COMMISSIONER: So that you do not have control of the funds?

WITNESS: Not really, no.

COMMISSIONER: Would you agree that that is something about which I should be concerned?

WITNESS: It might be of some concern to you if you felt that something was being done wrong with the funds. In cases that –

COMMISSIONER: Not much point in closing the door after the horse has gone.

WITNESS: That is right.

COMMISSIONER: And this having come to my attention I have become concerned, and I wonder whether my concern is justified.

WITNESS: From my own experience I don't think it is. Certainly on the funds I am involved with.

COMMISSIONER: Yes. One of the things for example, supposing in the instance we have talked about where the membership in this union local has practically disappeared, the funds might then be taken to Washington.

WITNESS: That is right. That is a possibility.

COMMISSIONER: Yes. The fact that you say it is a possibility tells me quite eloquently that my concern is justified.

WITNESS: Yes. But that is just one area now. Other areas, I think if they are administered properly and the funds are controlled properly – Whether it is required for all trust funds because of one, I am not sure.

COMMISSIONER: But, you see, you sort of left the impression, until I questioned you more closely, that you had control of the fund. And it turns out that you do not have control of the fund; that it is the trustees who have control of the fund.

WITNESS: But I could write a cheque to someone else in my office and take all the money.

COMMISSIONER: Yes, as long as you had power of attorney.

WITNESS: Yes.

COMMISSIONER: But once the power of attorney is taken from you, then you could not do it?

WITNESS: That is right.

COMMISSIONER: And those who gave you the power of attorney can also take it away.

WITNESS: Yes, they could.

COMMISSIONER: So that they are the ones who are really in control of the fund.

WITNESS: Yes, sir.

Douglas Mitchell was the vice-president of finance of Murray G. Bulger and Company. He examined a copy of the Musselman report (exhibit 993). It was his opinion that spot checks of employer records would be useful, but because of the multiemployer situations, it might be costly. He pointed out that in the funds administered by them the trustees as well as the

employees of the administrator were bonded. A booklet was supplied to the employees setting out the details of the plan.

The evidence indicates that employees are not adequately protected. The problem receives further attention in the following chapter.

Books and records

Local 562

Richard Cuttle, a chartered accountant with Touche Ross, investigated Local 562 on behalf of the Commission. The sources of revenue of the union were: union dues paid directly by members; the check-off of fees from employers and remitted to the union; other fees, such as initiation fees, which are paid at the union office or at the job site; and fines and penalties paid by members of the union.

He pointed out that in the year 1971 \$9265 was received in cash, and in 1972 \$7210 was received in cash. There was no record of this total of \$16,475 being deposited to the union bank account.

Gus Simone, the business manager, and Leonard Ballantyne, the financial secretary and business agent, were responsible for managing the union. They were also the signing officers. Cuttle found that the records in general were incomplete and the control poor. He was unable to ascertain where the cash was kept.

Transcript Vol. 16, page 2061

MR MCRAE: And what sort of records were kept. Was there a good set of books?

MR CUTTLE: In general the records that we looked at were found to be incomplete and at the same time the control over these records I would say is poor.

There was no professional audit of the books.

Transcript Vol. 16, page 2064

MR MCRAE: You started to touch on the accountability of Ballantyne and Simone to the executive and to the union. Did you check into what sort of accountability there was and what sort of auditing, if any, there was?

MR CUTTLE: We reviewed the minutes of the Executive Board and the general membership. In those meetings the extent of information mentioned in the minutes with regards to the financial position consisted of a statement of the bank balance. Three members of the union were appointed as auditors. We have no knowledge –

Q: Internal auditors?

A: Internal auditors. We have no knowledge of the scope of their examination, nor do we have any documentation regarding the results of their examination.

The expenditures consisted of salaries and expenses of the officers and employees, the per-capita tax payments to the international, payments for meetings, rent, fees to organizations, petty cash, and miscellaneous. Many expenditures were not authorized in the minutes.

Transcript Vol. 16, page 2067

MR CUTTLE: There was no authorization in the minutes for any expenditures.

There was no basis upon which disbursements could be justified.

Transcript Vol. 16, page 2070

COMMISSIONER: Well, you are not in a position to say whether the expenditures were or were not justified?

MR CUTTLE: In the majority of circumstances that is true, sir.

Cuttle found that a two-year total of \$24,343 had been recorded as expenditures and not as taxable income to employees.

Transcript Vol. 16, pages 2070-2

MR MCRAE: Now, did you discover any of what might generally be classified as irregularities in the handling of the union funds? First of all, would you deal with the matter of expenses, expense accounts paid to employees.

MR CUTTLE: The officers received a weekly expense advance for which they were not accountable. In other words, they do not have to supply supporting evidence as to the level of the expenditures. There were five officers who received expense advances in '71 and '72, and the first was Mr A. Simone. In 1971 he received advances of \$50, which was increased to \$74 per week, totalling \$2890 during 1971.

COMMISSIONER: Two thousand - ?

WITNESS: Eight hundred and ninety dollars. He received weekly amounts of \$70, which was increased to \$75 in 1972, and that aggregated \$3880. The total for the two years was \$6670.

MR MCRAE: For Mr Simone?

A: For Mr Simone.

Q: And this was just money advanced to him every week?

A: Yes, in a cheque.

Q: No accounting for that?

A: There was no supporting documentation required for that. Mr Ballantyne had the same level of payments in 1971, totalling \$2816. In 1972 he received weekly amounts of \$70, which was reduced to \$65, totalling \$3240 for 1972. The total for the two years was \$6056. Mr R. Buird received the same level of payments in 1971, for a total of \$598. He had the same level of payments as Mr Ballantyne in 1972, totalling \$3600. Mr Arthur Hamilton had the same level of payments in 1971, for a total of \$512 and the same level of payments in 1972 for a total of \$2861.

Q: That \$2861 is the 1972 only?

A: Yes. The fifth person was Joseph Bagnato, who received the same level of payments in both years. For 1971 this totalled \$1516 and in 1972 it totalled \$2430. The total amount of money over the two years given as an expense advance was \$24,343.

Q: This was to the five people?

A: To the five people, in total.

Q: Was that put down as taxable income on their T4?

A: This was not recorded as a taxable item on their T4 slips.

He found a \$2600 cash shortage which had been written off.

Transcript Vol. 16, page 2077

MR CUTTLE: When we examined the working papers of the accountant, Mr Randall M. Innes, in his statement of receipts and disbursements for the six months ending December 31st, 1971 there is a notation of a shortage in cash in the amount of \$2600 which was written-off on that statement.

The renovation expenses to the premises occupied in the Gemini building were not adequately supported by proper documents.

Transcript Vol. 16, page 2081

MR MCRAE: With respect to the renovation expenses and bills that were alleged to be paid for renovations, do you have some evidence with respect to that?

MR CUTTLE: The union moved to new premises at 2102 Dufferin Street during 1971 in the months of April, May, and June of that year. They paid approximately \$12,131 –

COMMISSIONER: \$12,131?

WITNESS: Yes, sir, in renovation of those premises. Of this amount approxi-

mately \$3350 represents cheques that were cashed by Mr Ballantyne for which there is little or no supporting documentation.

He gave a summary of an apparent shortage of \$16,475.

Transcript Vol. 16, page 2101

MR CUTTLE: Right. With respect to the over-the-counter cash, \$16,475, the results of our work in the union's records allows us to identify it as follows. There was a cash shortage of \$2600 that was recorded. There was a cash shortage of \$900 recognized but not recorded. There is a cash payment, renovation expenses of \$450; and there is cash on hand in advances to officers totalling \$1215, which are part of the reconciling items in the \$16,000. This is a total of \$5165. We also have the cheques that were re-deposited in the general bank account, totalling \$7220; sundry items of \$590 and an amount of \$3500 which, because of the documentation in the union's records, we have not been able to trace these specific expenses. This reconciles out to \$16,475.

Cuttle found that the record of membership was inadequate and inaccurate.

Transcript Vol. 16, page 2101

MR CUTTLE: The records relating to union membership were in such poor condition that our best estimates came up with the range between 750 to 1000 members. Any figure in that range would represent the true membership of the union during 1972.

So that one could only estimate the number of members and the expected income. There were three different records of membership: (1) the per-capita tax reports to the international indicated an average of 660 members; (2) Tolley and Associates records indicated a membership ranging between 889 to 1127, for an average of 1000, (3) the union card ledger indicated anything from 750 to 1000.

Cuttle explained that even on the basis of 750 members there would be a shortage based on the projected income from that number of members. The fees may not have been collected; and if they were they were not accounted for.

Transcript Vol. 16, page 2115

COMMISSIONER: Of course you are not suggesting that the membership fees were collected and not accounted for? It may be that membership fees have

never been collected from whatever number of members there would be in excess of the amount accounted for?

MR CUTTLE: Either event could occur.

COMMISSIONER: Yes.

WITNESS: We would not be able to tell.

COMMISSIONER: You can't tell whether the monies were never collected from a number of members or whether, if the monies were collected, it has not been recorded?

WITNESS: Yes, sir.

Then, \$22,000 was expended by this local to organize the Concrete Forming Division. This is a large expenditure of money and Cuttle found that there was no authority from the union for this unsuccessful venture. Moreover, there were no vouchers covering any of the disbursements. In fact, the union minutes were incomplete.

Ronald M. Innes, who carried on business as an accountant, gave evidence. The revenue according to his working papers in 1971 was \$120,000, more or less, and in 1972 was \$172,000, more or less. The balance on hand as at 31 December 1972 was \$20,222.51. The biannual statement which he prepared for the union was based on the receipts and disbursements shown in the union records. At one time, the local had the services of a full-time, trained secretary and there were proper books of account. When Ballantyne took over, he dismissed her and the books and records were never the same.

Transcript Vol. 16, page 2137

MR MCRAE: About six months after 562 was formed, you say she left?

MR INNES: I am not sure if it was six months but it was for a period after – shortly after Mr Ballantyne had been appointed financial secretary. Actually he was taking over her duties.

Exhibit 253, appendix 93, is a statement as of 31 December 1971 showing a \$2600 cash shortage. The business manager suggested that this shortage be charged to organizational expenses. One gets the impression that that was the usual cover-up in such circumstances.

Transcript Vol. 16, page 2145

MR INNES: I spoke to Mr Simone before I issued the statement, I spoke to Mr Simone at various times but in particular one time and told him, what are we going to do with this cash shortage. We cannot continue to carry it along, and

he said charge it up to the organization expense more or less. That is all you can do. I said I will show it on the sheet, show this as a cash shortage.

Innes testified that he found that records were not satisfactory, that there was no cash box, that there were no books.

Transcript Vol. 16, page 2147

MR INNES: If you look at those records you will see that the records are made by a man with very little experience in actual bookkeeping records, and very careless.

Transcript Vol. 16, page 2151

COMMISSIONER: All the times you ever went there, did you ever see any special place or cash box or drawer or something of that sort where their petty cash would be kept?

MR INNES: No, I did not, sir.

Transcript Vol. 16, pages 2151-2

MR MCRAE: There were large sums of money going into the union and out from the union local. I think you told us that there were really no books kept?

MR INNES: No books kept.

It was obvious to me from the evidence that the accounting of Local 562 was far below any reasonable standard.

Local 117

Mary Bellissimo worked as a secretary for Local 117 from July 1966 to November 1971. Her duties consisted of bookkeeping and typing, in the course of which she attended to the banking and accounts payable. Burigana was her immediate boss, but Irvine, who also had signing authority, was considered to be in charge.

Transcript Vol. 34, page 4998

MR MCRAE: What did your duties include at Local 117?

MRS BELLISSIMO: I did the bookkeeping, like, the ledger.

Q: Made the entries in the ledger?

A: Yes, and correspondence, and I did the banking and then later on I did the accounts payable, and I helped the members.

Q: Who ran the office during the years that you were there? Who was sort of your immediate boss?

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A: Well, I always looked upon Mr Irvine as the big boss.

Q: Right.

A: And also Mr Burigana, but for the big decisions, I always looked upon Mr. Irvine.

No financial statement was ever distributed to the members.

Transcript Vol. 34, page 5002

MR MCRAE: Can you tell us if this audit was ever distributed to the members of the local?

MRS BELLISSIMO: No, I have never seen it distributed. It was read. As far as I know it was read to them but I had never distributed it or never typed or had it printed for all the members.

Emil Burigana kept the minutes of the meetings and gave them to Mrs Bellissimo to be typed.

Transcript Vol. 34, page 5003

COMMISSIONER: Then when you say that you typed up the minutes, you mean that you typed up what somebody else gave you to type up?

MRS BELLISSIMO: Yes, sir.

MR MCRAE: Who kept the minutes?

A: Mr Burigana did.

Q: And he would give them to you in written form or dictate them to you?

A: Yes.

Irvine ordered that the cheques be made out to cash and many were signed in blank.

Transcript Vol. 34, page 5003

MR MCRAE: Would there be large cheques, and anything over \$500 I would consider large, drawn on cash from time to time?

MRS BELLISSIMO: Yes.

Q: And who would instruct you to draw cheques payable to cash?

A: Mr. Irvine.

A fire had occurred in December of 1970 while Mrs Bellissimo was absent. When she returned the office had been moved across the hall. No union records were destroyed in the fire.

Transcript Vol. 34, page 5007

MR MCRAE: And were any of the union records destroyed in the fire?

MRS BELLISSIMO: No sir, not that I know of.

In either October or early November of 1971, Irvine took the records away.

Transcript Vol. 34, page 5009

MR MCRAE: So sometime during 1971 you say Mr Irvine in your view and to the best of your knowledge took the records, the financial records of the local away somewhere?

MRS BELLISSIMO: Yes sir.

Mrs Bellissimo left her employment with the local on 21 November 1971.

Angelo Burigana assisted Irvine in the organization of Local 117 in 1957 and continued as business agent until 1973. When Local 117 was placed in trusteeship in 1971, Irvine took over the books and records and looked after them himself.

Transcript Vol. 32, page 4631

MRS SHEPHERD: And when the union was placed in trusteeship (and I will come to that a little later) in the autumn of 1971 who kept the books after that?

MR BURIGANA: Mr Irvine.

Q: We have not found Mr Burigana any financial statements for this local union. Do you know whether there were any financial statements made up from time to time?

A: Well the financial statement was made up every year, once a year at least.

Q: Yes. Do you know where those would be?

A: Must be in Mr Irvine's hands some place. His house or the office. I don't know.

Shahid Minto investigated the books and records of Local 117 on behalf of the Commission. No financial statements were available. Minto was informed by Irvine that none had been prepared since 1971 and that the statements prior to that time had been lost in the fire.

Transcript Vol. 32, pages 4524-5

COMMISSIONER: You made requests for financial statements, and what were you told?

MR MINTO: We had an interview with Mr Irvine, and we requested this, and he said that none had been prepared since he took over.

COMMISSIONER: When did he take over?

WITNESS: I believe in 1972.

MR MCRAE: 1971?

A: '71

Q: At the time of the trusteeship?

A: That's right, sir.

Q: None had been prepared since that time?

A: That's right, sir.

Q: What about prior to that time?

A: He had regular orders prior to that, but, all the financial statements had been lost in the office fire.

The preponderance of evidence is to the effect that none of the books and records were lost in the fire. The ledger sheets which were available were re-written in the handwriting of Irvine.

Minto was unable to estimate the amount of money collected or due, or to state whether the money collected had been deposited. There were no expense reports.

Transcript Vol. 32, page 4528

MR MINTO: Initialled receipts. All we have is a few receipts here and there. No concrete listing that something has been received.

MR MCRAE: And were you there in a position to determine how much money had been collected by the union?

A: No, sir we could not establish if all the money that was due was collected.

Q: Or how much money was collected?

A: No, sir.

Q: And what about the money that was collected that was deposited in the union account. Were you able to determine that?

A: No, sir. We could not say if all the money that was collected was deposited.

Exhibit 782, which appears as appendix 51, is a brief giving an analysis from the material available. It is obvious from an examination of the schedules that Irvine dealt with the affairs of the local as a personal undertaking.

Exhibit 783 is a cheque dated 14 May 1970 in the sum of \$5000 from the international union to Irvine for organizational expenses. This cheque was deposited to Irvine's personal account, and \$4000 was drawn in cash. Irvine had no explanation.

Again, on 21 October 1971, the sums of \$5525 and \$3000 were deposited in Irvine's trust account.

Transcript Vol. 32, page 4534

MR MINTO: We noted that there was a deposit made of \$5525 in Mr Irvine's account. We asked him about this and he could provide us with no explanation. We also noted that on the same day \$3000 was deposited in C.W. Irvine's In Trust Account 31521 which is a union account and the total of those two cheques came to \$8525.

Then, the sum of \$18,200 was taken to organize Local 733, for which there was no authorization, although Irvine does say that the members told him to go ahead.

Transcript Vol. 32, page 4542

MR MCRAE: Until October 21st, there was \$18,200 transferred from Local 117 account into account 631521?

MR MINTO: That is right, sir.

Q: What was the purpose of the transferring of that amount of money out of the union account into the C.W. Irvine in trust account?

A: We were told it was to help organize another local called Local 733.

Q: This you were told by Mr Irvine?

A: That is right, sir.

Q: Was there any authorization anywhere in general meetings or executive board meetings?

A: No, sir. We went through minutes and we went through all available correspondence and we haven't found any authorization.

There were large disbursements as shown in schedules A and B, of Exhibit 782, and Irvine was unable to explain them.

Transcript Vol. 32, page 4544

MR MCRAE: And those three years we are dealing with in excess of \$80,000. Did you ask Mr Irvine for an explanation of where that money went?

MR MINTO: Yes, sir, we did. And he appeared really surprised seeing these large amounts going out of the account. He said he didn't know what they were for.

Exhibit 222 is an analysis of Irvine's account no. 27680 in the Toronto-

Dominion Bank between 1969 and 1973. Items shown in schedule 5 were not explained.

Transcript Vol. 32, page 4568

MR MCRAE: So then what we have left in Schedule 5 are unexplained sources of revenue?

MR MINTO: That's right, sir.

For example, an item of \$3500 on 28 June 1972 brought the explanation that he did not know who put it in his account.

Transcript Vol. 32, page 4570

MR MCRAE: All right. In 1972 on June the 28th, \$3500?

MR MINTO: That's right.

Q: Deposited in his personal account?

A: Yes.

Q: Did you check that deposit slip?

A: Yes, sir. The deposit slip was not in Mr Irvine's handwriting. We showed him the deposit slip and asked him and he said he did not recognize the handwriting at all and we specifically asked him if it was his wife or brother or son or somebody he knew and he said no. He said he did not know who put this money into the bank.

Schedule 6, exhibit 482, indicated that Irvine used all the accounts as personal.

Transcript Vol. 32, page 4577

MR MCRAE: Would it be a fair thing to say that Mr Irvine more or less treated these bank accounts like his personal bank accounts?

MR MINTO: He had complete control, sir. I don't think he made any differentiation.

It was the opinion of Minto that the records were not adequate. There was no bookkeeping, no general ledger, and in fact, a complete lack of records.

Transcript Vol. 32, pages 4575-6

MR MCRAE: Can you sort of summarize your findings in any way for us, the state of the records of this union local and what controls were there? Were there any controls?

MR MINTO: No, sir. We were surprised to find that the same person had signing authority on the cheques and the same person –

Q: That is Mr Irvine?

A: That is right, sir. And Mr Irvine was approving bills and vouchers apparently, and he was recording all the expenses himself too. No segregation of duties. And that to me as an accountant shows poor internal control.

Q: No internal control?

A: Complete lack of internal control.

Q: A complete lack of records?

A: Almost a complete lack of records.

Q: The only records are records – or not the only records but virtually the only records are sheets prepared by Mr Irvine?

A: Yes, sir. Some vouchers and cancelled cheques for 1972 and 1973. one bank account only.

COMMISSIONER: Was there a bookkeeping service employed?

WITNESS: No, sir. No bookkeeping. We couldn't find a general ledger so it was impossible for us to tell what were the assets or the liabilities of the union.

As of the end of December 1970, account no. 00612, which is the bank account of the union and appears as exhibit 772 and exhibit 778, indicates a balance of \$51,565.01. The balance as of December 1971 indicates an over-draft of \$2509. It appeared, therefore, that 54,074.01 had been disbursed without records.

Transcript Vol. 32, page 4576

MR MCRAE: What kind of figures are we dealing with? What was the bank balance in the trust account, the most recent union trust account? Can you tell us what sort of money was involved?

MR MINTO: Well, sir, at the end of December 1970, account 00612 had a balance of \$51,565.01.

Q: Yes.

A: And by the end of 1971 this account was in overdraft to the tune of \$2509.

When asked about the books and records of Local 117, Irvine tried to leave the impression that he was unable to explain their disappearance. He disagreed with Mrs Bellissimo who stated that they were not destroyed in the fire.

Transcript Vol. 36, page 5382

MR SHEPHERD: Well, Mr Irvine, when the union is in trusteeship and you are

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trustee, they are your books and records, and I suggest that if you think notwithstanding what Mrs Bellissimo says that the records were destroyed, you should say so, or give whatever account you can as to what happened to them.

MR IRVINE: I am sorry, I cannot give you any account, Mr Shepherd.

As to the expenditure of \$18,000 for the organization of Local 733, Irvine stated that it had been approved by the Board and the members in 1971, even though it had not been shown in the records, and that no limit had been put on the amount spent.

Transcript Vol. 36, page 5401

MR SHEPHERD: Now as trustee and the sole possessor of these records, where is the authorization?

MR IRVINE: That I do not know because your staff picked up the minute books of both the Executive Board and the General Meeting.

Q: They can't find a reference to these, Mr Irvine, in the books.

A: I have seen a reference to these two particular meetings in the minute books of the Executive Board and the General Meeting.

Irvine admitted that in his meeting with the auditor, Mr Minto, there were matters he was unable to explain.

Transcript Vol. 36, page 5403

MR SHEPHERD: Mr Irvine, is it not correct that for a number of hours aggregating perhaps a day and a half, you and the accountants for the Commission, one of the investigators, sat down and discussed a large number of entries, bank accounts, cheques, and the like, with a view to obtaining explanations for them; is that correct?

MR IRVINE: That is true.

Q: And were there some entries for which you then – and I speak now of the events of a few weeks ago –

A: Yes.

Q: – you then did not have from your remembrance an explanation? Were there some things you could not explain?

A: True.

Q: Have you since that time had an opportunity to reflect further and perhaps you do remember explanations for some of these things that you could not then recall?

A: No, I haven't cleared that up.

Irvine accepted the evidence of Minto.

Transcript Vol. 36, pages 5410–11

MR SHEPHERD: Mr Irvine, before I leave this matter of these deposits, cheques, and financial transactions, I think you have already said that you were aware of the accountant's views on it which were reflected in his evidence. Is there anything more you wish to say or is there any transaction with which you wish me to deal, or shall we leave it with the accountant's evidence?

MR IRVINE: I think that they, as I say, the accountant does not understand – His way of life and ours is two different things, and I think on the day that I was down here the investigating officer tried to be fair and considerate, and I told him – in fact sometimes they confused me the way they threw figures around, but I will accept what he says.

William H. Pollay, a partner in Dunwoody & Company, had been the accountant and auditor for Local 117. In 1969, he was in charge of the accounts. For the years 1971 and 1972 nothing had been done, as he had been informed that the union had disintegrated and the records destroyed in a fire.

Transcript Vol. 34, page 4923

MR MCRAE: Dunwoody & Company were the auditors for Local 117?

MR POLLAY: Yes.

Q: And you yourself did it from 1969?

A: I was the partner responsible for it since 1969. I was involved in it as a senior prior to that so there is some continuity with myself.

Q: What about 1971 and 1972?

A: No, to the best of my knowledge, nothing was done in 1971 and 1972. The standard procedure was for us to contact our clients at their fiscal year end and ask them when they would be ready. Again, to the best of my recollection, we were advised that the union had disintegrated by December of 1971. The records had partially been destroyed, I believe, in a fire, and when things were organized that they would call us to bring things up to date. We have not heard from them since then.

Q: So the last year for which you have an audit statement is December of 1970?

A: Correct.

The last statement was in December 1970, when Mary Bellissimo kept

the books. There were difficulties in getting copies of the minutes, even at that time.

Transcript Vol. 34, page 4932

MR MCRAE: Just as a matter of interest would you get copies of minutes of meetings so you could refer to them to see if there was authorization for payments?

MR POLLAY: I think that is one of the things you will note on the file is that we did have difficulty getting copies of the minutes. The type of thing that we were interested in and asked for and again there is a note on file, was the approval of their financial statements, and the appointment of us as auditors for the ensuing year and this is the normal corporate procedure that we were trying to relate to and the union and the union funds and I would have to look back to try and remember whether or not we did.

In Local 117, not only were the books and records kept far below any reasonable standard, but Irvine dealt with the records and assets of the local as if they were his own personal property.

Local 598

Shahid Minto of Touche Ross investigated the books and records of Local 598 on behalf of the Commission. Exhibit 844 is the 1972 Minute Book, and exhibit 845 is the 1973 Minute Book. The minutes covering the appointment of Amis as acting business manager are shown in exhibit 844. The following appeared in the minutes of 21 August 1972 of the Executive Board: 'The Executive Board recommends if the membership upholds the Trial Boards' decisions that they appoint Brother Zygmunt Jedrasik as acting Financial Secretary, Brother Michael Mihaljovic as acting Recording Secretary and Brother A.F. Amis as acting Business Manager until nominations and elections for the vacant positions in Local 598 are held. Brother Giovanni Balanzin is also to be appointed as acting assistant Business Agent.'

Exhibit 846 is a looseleaf book containing the financial reports. There appeared to Minto to be something irregular about the statements for the period 22 August 1972 to 18 September 1972 in that A. Haluska had signed above the entry of a payment to Amis of \$8320.32.

Transcript Vol. 35, page 5115

MR SHEPHERD: This is exhibit 846.

COMMISSIONER: 846.

MR SHEPHERD: What was it you wished to say, Mr Minto?

MR MINTO: I was just going to point out, sir, that in this exhibit there is another copy of these minutes – of these statements and somebody appears to have signed on top of the page.

Q: Perhaps to clarify what you are saying, are you referring to exhibit 846 and do you say that, in there, there is one copy of the same statement as appears in the Minute Book – in the Financial Statement Book, and on that one – I don't know that anything turns on this, but the vice-president, Mr A. Haluska has signed twice. He signed once up above where this typing is done and once again down below; one signature appears to be immediately below the column excluding –

A: That is correct.

Many of the cheques which were drawn by Frank Amis were dated prior to his appointment on 21 August 1972.

Transcript Vol. 35, page 5122

MR SHEPHERD: But many of these cheques bear a date prior to even August 21st, when he was first appointed?

MR MINTO: That is correct, sir; all of them.

The financial statement to the end of 1972, exhibit 858, show organizational expenses of \$8507.80. Apparently, it was made to appear that these expenses had been incurred in an earlier period.

Transcript Vol. 35, page 5126

MR SHEPHERD: Do you know why it is included in a statement made for a period ending the 21st of August when in fact the expenditure was made in September?

MR MINTO: Yes, sir. We spoke to the accountant on this point, too, and he said that he was asked by Mr Amis to accrue these expenses at that stage.

Q: The effect of it is then on the financial statements to have the expense appear in the earlier period?

A: Yes.

Amis admitted that since talking to the auditor he found that errors had occurred in the books and records.

Transcript Vol. 35, page 5187

MR AMIS: Because it was for that task – those eight cheques was for the period

prior to August 21st, then it should be charged to that account as 'Organizing.' If you will note, all the cheques, they have my name on the back and my name is the signing officer on the front. Since talking to the auditor we found that we have erred somewhat. We would admit an error.

It appeared from the evidence that, not only were the books and records below standard, but they were deliberately contrived to mislead.

Local 18

James Pearce, a chartered accountant with Touche Ross, examined the books and records of the Carpenters' Union Local 18 in Hamilton, at the request of the Commission.

Exhibit 1045, appendix 95, is his report. He concluded that the records were not adequate, money was not being deposited on a regular basis or intact, the receipt book did not agree with the deposits, receipts were missing, the members ledgers were not balanced, deposits in the bank account could not be identified, there were errors and omissions in the initiation fees. Pages were detached from the receipt books. There were unidentified deposits in the sum of \$23,528.50.

Transcript Vol. 60, pages 8738-9

MR MCRAE: Did you make some general conclusions?

MR PEARCE: Basically the conclusion I came to, the books of account were not prepared on a double entry system and the internal controls incorporated in the office procedures during the period appeared inadequate.

Transcript Vol. 60, page 8746

MR PEARCE: In my opinion, the local's practice of detaching the pages from the receipt books and attaching them to deposit slips without any form of numerical sequence check actually enhances the possibility of misappropriating funds without fear of being discovered since the amounts recorded as the local's income for the years were only those monies actually deposited into the bank accounts.

He found an obvious manipulation of three adding machine tapes, so that the total was greater than the individual items. It brought about a deception which gave an appearance of accuracy which did not exist.

Transcript Vol. 60, page 8750

COMMISSIONER: Manipulation in the total? Perhaps you had better explain

that. You actually have an adding machine tape which, on the face of it, would appear to coincide with the deposit – with the receipts?

MR PEARCE: Yes.

COMMISSIONER: Explain why it does not.

WITNESS: Well, I traced all the individual entries on here and the totals should have agreed, but they did not agree.

COMMISSIONER: Yes.

WITNESS: So it would appear, through some means, by either putting a credit on the top of the tape before starting the run – possibly there was a credit of \$80 put in there.

COMMISSIONER: I see.

WITNESS: Then the tape was detached below the credit.

COMMISSIONER: So that –

WITNESS: Thereby arriving at a total, overall total, \$80 less than what it should have been.

On 16 October 1970 total receipts were \$845 with a deposit of \$485, a difference of \$360, which was not deposited at that time.

Transcript Vol. 60, page 8753

PEARCE: Yes. What happened in this instance, the attached receipts totalled \$845, but the duplicate deposit slip attached to them was for an amount of \$485. This one I couldn't explain other than the fact – of this last discrepancy – because all the yellow coupons were there, and the details of the duplicate deposit purported to represent all of those receipts. There is actually a difference there of \$360 which is unaccounted for.

It was not possible to make an accurate check of the books because the ledgers were not self-balancing and receipts were missing.

Transcript Vol. 60, pages 8756–7

MR MCRAE: Before you go on, if the yellow receipt copies are destroyed, would there be any way of determining the revenue represented by those yellow receipts?

MR PEARCE: No. That was the whole point of trying to get a numerical sequence check. Had the individual ledger been self-balancing and the monies received on those missing receipts been membership dues we possibly could have come up with a total, but since the ledgers are not self-balancing and the receipts are missing there is no other control figure with which we could relate.

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It was the opinion of Mr Pearce that the responsibility for proper records was that of the treasurer.

Transcript Vol. 60, page 8758

MR PEARCE: I feel it is the function of the treasurer to be responsible for maintaining adequate records of the deposits made to the bank accounts.

The record of initiation fees was not clear. There were some errors, and it was not possible to make a reconciliation. In the strike fund, the total amount of the assessments could not be established, and therefore, it could not be determined if they had all been paid.

Leonard Lawrence, a chartered accountant of Hamilton, was engaged by Local 18 on 10 August 1970 to investigate their books and records, and he continued to act as their accountant and auditor. He began his examination in August 1970 and found that the system was faulty.

Transcript Vol. 53, page 7588

MR LAWRENCE: At this time I discovered, in my opinion, that the existing bookkeeping and systems that were followed were faulty and after a discussion with Mr Tarbut who at this point I had set up as basically the person to which I was responsible and answerable to –

MR MCRAE: He was the president at that point?

A: Correct. I was responsible to him and through him to Mr Stefanovitch, the general executive board member, so my immediate thing to do after the initial investigation was to set up some proper bookkeeping systems and controls which were then installed, I believe, in early September which was about three weeks after I had started.

He then set up what he considered to be a proper system and control. He originally checked a two-week period but later expanded it to a six-month period, from July 1970 to January 1971. His report appears as exhibit 997, appendix 96. He found the records to be inadequate. Deposit slips were missing, money deposited twice. He stated that the trustees now realize that they cannot do everything themselves and made greater use of his services. He was authorized to provide a monthly check.

Transcript Vol. 53, pages 7691–2

MR LAWRENCE: I think because of what has happened and because of the fact that the executive requested that I meet annually with the trustees to review the system and to help familiarize them with what I feel would be reasonable

checks and some guidance in doing it, they have discovered that there are areas that they are not as knowledgeable as they thought, and everything seems to have been running smoothly since then.

William Stefanovitch, the international representative of the Carpenters' Union, gave evidence. He pointed out that the constitution provided for auditing of locals with an income of over \$50,000 per year. The revenue of this local was in excess of \$100,000 per year, but the audit had not been carried out for at least four years.

Transcript Vol. 54, pages 7992-3

MR MCRAE: You told them this and they accepted what you told them?

MR STEFANOVITCH: Yes, I said in view of the constitution making certain provisions that where a local union takes in more than \$50,000.00 a year it is mandatory that a CPA be brought in and the books be audited. This from what I had gathered had not been done previously and I said that it must be done, steps must be taken along those lines. There was no objections.

Q: But it was a trustee that pressed for the audit?

A: Yes, there is no denying that. On the 11th when I met with them they felt that this amongst other things should be done.

Q: You got into another area. You say that the constitution provides that a local union taking in more than \$50,000.00 a year has got to have an audit once a year?

A: They have got to have a CPA coming at least once a year and do their books.

Q: And this had never been done?

A: My information was that it had not been done. If it was done, it might have been a few years back. I imagine, as my notes read, it was at least four years prior to my coming in that there had been a CPA look at the books.

Q: And they were taking in, as far as you know, considerably more than \$50,000.00 a year?

A: I believe it was in excess of \$100,000.00.

He also pointed out that it was unusual to have duplicate receipts in lieu of a day book.

Transcript Vol. 54, page 7995

MR MCRAE: The system that was used here most recently, the numbered duplicate receipt system, is that a system commonly used in Carpenters union locals?

MR STEFANOVITCH: No.

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Q: It is an unusual system?

A: I would answer your question this way. I have not run across it too often. Normal practice is the local union uses the day book system and the ledger card and receipt book system, dues book, and then they work this on to their per-capita tax sheets they receive each and every month from head office. When these per-capita tax sheets are remitted back, sent back, the day book sheets should be accompanied with the per-capita tax sheets and they can at that end of the line check back and forth.

The international, however, does not interfere with the locals unless there is a complaint. In this case, the international was prepared to send its auditors in response to a complaint by Romeo Charbonneau, one of the trustees. The staff auditors were busy. Accordingly, when Lawrence was engaged by the local to conduct an audit, the international office was satisfied that the complaint was being investigated. Exhibit 1022, appendix 97, is the report made by Stefanovitch.

Comments

Philip Musselman, a chartered accountant with Touche Ross, gave evidence which deals generally with the books and records of union locals. His information was gained from an examination of twenty such locals in the course of investigations on behalf of the Commission. He found that about half of those examined were below standard requirements. Most of the locals had annual receipts which ranged from \$500,000 to \$1,000,000.

Transcript Vol. 59, page 8584

MR MUSSELMAN: I would judge that approximately half of those that we examined were not satisfactory from an accounting point of view by any standard.

He found the following shortcomings: copies of statements were not filed; the secretary-treasurer prepared statements on assumptions; books were inadequate to support statements; single entry system of bookkeeping did not permit balancing of records; there was a failure to deposit cash immediately and intact; books of original entry were not written up promptly; cash receipts and disbursements were not promptly recorded; petty cash funds were not properly used or controlled; and membership records were not properly maintained.

He sought to lay down a minimum standard and gave the following criteria.

Transcript Vol. 59, pages 8595–7

MR SHEPHERD: Then what did you seek to achieve in general terms in laying down a system of minimum standards which might be considered?

MR MUSSELMAN: First and foremost I wanted to establish a system which was simple and not expensive. It would require people, particularly the senior person in the accounting area, to have a good general knowledge of book-keeping but not to be a well-trained and expensive accountant.

Q: Yes. Now respecting cost – I am jumping ahead but will it not be one of your suggestions that perhaps it ought to be mandatory that financial statements annually be audited by a chartered accountant and an opinion given thereon? Is that not one of your suggestions to come?

A: That is one of my very important recommendations, yes.

Q: Let's deal then with the question of cost. Obviously it will cost a significant sum I should think to have that done?

A: I don't believe that the costs would exceed monies that are presently being spent, first of all, in that much money is being spent by unions to hire outside people to perform the bookkeeping work, or if they are performing the bookkeeping work themselves, it is not being performed in a manner which permits easy audit, and therefore the auditors' invoices tend to be expensive because they have considerable bookkeeping to do to get the records ready for auditing. Secondly, I am concerned with regard to the looseness of controls in the systems that now exist, and would suggest that the auditing invoices would be – would not be expensive when you relate that to the controls which would be obtained and the tightening of the controls would lead to a more efficient use of the assets.

Q: You are saying then, I take it, that you are satisfied that requirements to have an independent auditor's opinion would not be a financial burden on the union local, first, because they already spend some money in that respect, and, secondly, because you are satisfied that the cost would be far exceeded by the savings which would result in proper control over that money?

A: Correct.

Q: Again I suppose I should elicit from you the fact that you are not saying that it would be necessary for there to be deliberate defalcation in order to balance the cost of an independent audit, but that there might be instances – I think there have been instances – of accounts being paid twice, for example, liabilities not being set up, receipts simply being lost, and the like. These arising from inattention and not from dishonesty; is that correct?

A: That is correct,

Q: What other advantages were you looking for when you put together this simple system of which you speak?

A: The other advantages are that control of the financial affairs of the union

will be enhanced in that the executive will know the financial status and will be able to make proper plans for the union, to look ahead and check those plans against what actually occurs.

Q: Yes.

A: And secondly, I want a system where the financial statements are a direct byproduct of this system itself, so that union membership can be satisfied with the state of affairs of the union and will know the success or lack thereof of the union of which they are a member.

Mr Musselman prepared a specimen of the minimum records which ought to be kept, which appears as exhibit 1039, appendix 98. The matter is dealt with again in the following chapter.

5

Labour-management relations

Earlier chapters reported on illegal activities which were found in certain sectors of the construction industry in Ontario. In this chapter I propose to discuss the labour-management problems which were observed. There is little doubt that the pressures that built up as a result of these problems helped to create the atmosphere in which the illegal activities occurred.

The material for this chapter comes from evidence at the public hearings of the Commission, a number of briefs presented by representatives of labour and of management, and a study paper prepared for the Commission by Professor H.D. Woods of McGill University. I have included the study paper and the briefs as appendices to this report so that they may be considered in detail.

It must be remembered that this report has a limited scope. Only three sectors of the construction industry were investigated, and in only three regions of the province. Many of the briefs and the study paper are of a more general application, however, and to some extent consideration should be given to that fact. The purpose of this part of my report is to identify the problems which were encountered and to comment on approaches that may be taken to solve them.

I believe that labour and management are fully aware of their own primary responsibilities. Yet because the two parties appear as adversaries throughout the proceedings for certification and bargaining, they often lose sight of their overriding, common interest. We know that there will always be problems, and that there will always be differences of opinion about the solutions to those problems. The responsibility for settling these differ-

ences rests primarily with the immediate parties. But the public, represented by the government, has a basic vital interest; and when the immediate parties are unable, or unwilling, to settle their differences, it must be done for them. Surely there must be some limit to what the community pays to accommodate labour relations disputes. Accordingly, legislation should promote amicable settlement of disputes by the parties themselves and, when necessary in the public interest, the means for third-party intervention.

Because of the intermittent nature of the construction industry, both labour and management seek additional security. Labour finds that security in the union, while management finds it in employer associations. Councils of unions and more comprehensive associations enlarge the scope of influence. I believe that good labour-management relations will prevail with a viable labour movement and a responsible group of contractors, on a province-wide scale. Good legislation can contribute to the process.

The preamble to the Labour Relations Act of Ontario emphasizes that collective bargaining is to be encouraged. Section 3 provides that every person is free to join the trade union of his choice, and section 4 provides that employers may form organizations of their choice. Unions establish bargaining rights by certification or voluntary recognition and employers may either bargain individually or in groups and may take advantage of Section 35 for accreditation. It is within this framework that the problems encountered will be discussed – first with regard to the obligations of management, then with regard to the obligations of labour, and finally, with regard to the areas in which public participation may be expected and improved.

MANAGEMENT

Multi-corporations

Among the abuses which came to my attention was the practice of some contractors in conducting their businesses under a large number of different corporate names, in some cases using well over one hundred. Different corporate shells were used to create confusion. This practice adversely affected not only the employees, but also the competitors of the contractor and even the public. While it is true that section 55 of the Labour Relations Act provides for full disclosure and successor rights in the sale of a business, that section is not the answer to this complaint. Nor is section 1 (4) which deals with related companies on applications for certification. Among the difficulties that were brought to my attention were the follow-

ing: (1) Certification and accreditation were delayed and avoided when the necessary information was not available; (2) Unfair competition resulted from the practice of bidding through a union company and performing through a non-union company (a company engaging in this practice is known as a double-breasted company); (3) The use of payroll companies kept from the workers the identity of their employers. This practice frustrated the use of the Master and Servants Act, the Mechanics Lien Act, and the Bankruptcy Act; (4) The supervision by the union of other employee benefit legislation was made more difficult. In the case of the Workmen's Compensation Act, the Unemployment Insurance Act, the Employment Standards Act, and the Canada Pension Plan, the unions experienced difficulty in servicing their members.

Bid depositories

Another practice, which in proper circumstances might have brought some order to the unsettled conditions of the construction industry, was the use of bid depositories. A practice known as bid-peddling grew up, particularly among developers. It involves taking the lower bidders on a project and playing them off, one against the other. The subcontractor who finally secures the job at a price lower than he had originally bid then does what he can to carry out the contract at a profit by paying low wages and neglecting working conditions.

It may be that bid depositories properly operated can assist in the control of monopolies, combines, and price-fixing. It was brought to my attention, however, that bid depositories generally contributed to the destruction of competition, suggesting, of course, that they have been improperly used. There was evidence before me to support that suggestion. There were instances of combines which created monopolies and fixed prices, all under the pretext of bid-depositories.

Company-union joint ventures

Another serious abuse observed was the improper participation of some employers in the affairs of unions. Section 56 of the Labour Relations Act specifically prohibits such participation, while section 61 prohibits coercion to compel a person to become or refrain from becoming a member of a trade union. We found flagrant violations of both provisions.

The remedy provided by section 79, which authorizes an inquiry and report by a field officer of the Labour Relations Board, is not sufficient protection against this kind of abuse. At the present time, the employee must satisfy the Board that he has been improperly coerced, etc. I believe it

is the intention of the legislation to protect employees in the exercise of certain rights without fear of reprisal. In that case, the onus should be placed on the employer to satisfy the Board that the action taken was caused by other reasons.

Licensing of contractors

It may be that the answer to abuses in corporate identity, bid depositories, and union interference lies in the licensing of building contractors and subcontractors. The Goldenberg Report in 1962 also recommended that contractors be licensed. Exemption could be provided for small jobs.

Licensing has many advantages. Although the Labour Relations Act does provide some discipline for employers, it does not provide for the special circumstances which are found in the construction industry.

1 / The process of certification and accreditation would be greatly assisted by licensing. The licensing bureau would have readily available the names of the employers. The licencees could be required to make regular returns indicating the names and classifications of the employees. This would provide an up-to-date list for use on applications for certification and accreditation.

2 / Licensing would give positive identification to contractors. This would, to some extent, combat the evils which arise from lack of corporate identity. The licensee would be identified regardless of the name he used for any project.

3 / Bid depositories might be added as an adjunct to licensing. The licensing bureau could establish procedures and regulations. The contractors, however, must be included as parties to any plan, as it could not succeed without their entire support.

4 / Licensing could be used to impose some standards of qualification in the construction industry. These standards need not be unreasonably high in the first instance, but failure to meet the requirements and default in performance could be dealt with. The unsettled conditions and keen competition of the construction industry create a climate which requires some such degree of regulation. The standards might also be applied to small firms, in which the owner and members of his family are employed, which undertake contracts on a piecework basis and observe very few of the regulations on working conditions prevalent in the industry.

5 / Safety standards and working conditions could also be safeguarded through licensing.

6 / Many provincial and federal agencies would benefit from the information available through licensing. To assist in stabilizing the construction

industry, a great deal of precise information is necessary. It is often stated, for example, that workers in this industry do not enjoy full time employment; it would be useful to have statistics, so that comparisons could be made with other industries. Statistics should be available on construction and manpower forecasts, and the license bureau could assist in gathering the information. This would supplement the information now available through the Department of Labour.

7 / Employers based outside of Ontario would be indentified by licensing when operating within the province. We found that this information was lacking in the Ottawa-Hull region, which seriously prejudiced the employees.

8 / Licensing protects the public. One wonders why, in a society concerned about protecting the consumer where many different kinds of agents and dealers are licensed, builders should not be similarly treated.

Licensing is not new to the construction industry. California enacted the Contractors State Licence Law in 1929 and similar legislation is now in force in other states of the United States of America. In Canada, the province of Alberta is now considering a scheme of licensing and one already exists in the city of Calgary.

It may be that licensing would provide the discipline required for employers in the construction industry. I would, however, suggest a careful approach to the problem. A more detailed study is necessary before the matter proceeds.

LABOUR

Books and records

On the side of labour, there were a number of areas in which it appeared that the unions had failed to behave in a responsible manner. The earlier chapters disclosed many instances of improper conduct. To begin with, we found that a number of union locals kept very poor books and records. Section 76 of the Labour Relations Act requires every trade union to supply any member, upon request, with a true copy of the audited financial statement of its affairs to the end of its last fiscal year, certified by its treasurer or other officer responsible for the handling and administration of its funds to be a true copy. This provision, however, is quite inadequate:

1 / It does not set any minimum standard for maintenance of books and records. There was evidence that the books and records of a number of locals were far below an acceptable standard. It would seem reasonable that regulations under the Labour Relations Act set a minimum standard

for books and records of locals which are recognized as bargaining agents. An adequate but not elaborate form of bookkeeping was suggested to the Commission and appears as appendix 40.

2 / Internal audits are inadequate. We found that the members of locals elected to conduct the audit were in some cases not qualified, by education or training, to discharge their responsibilities. This is not meant to be critical of the many dedicated union members who have served as auditors. Yet in some cases, there was a natural but undesirable tendency to rely upon those whose records the representatives were required to audit. The international offices of some unions do provide written instructions to internal auditors; but this is not sufficient and something should be done to train such auditors for their positions. Provision should also be made for an outside audit when the gross receipts of a union exceed a certain sum, or when one is requested by a fixed proportion of the members.

3 / Members are loath to request copies of the financial statements, for fear that in so doing they may become labelled as disturbers within the union and dealt with accordingly. We found instances where those in control of a local were able to discriminate against those in disfavour in subtle ways that were not easily remedied.

I found the problem of union books and records troublesome. On the one hand, there is the question of interfering with the rights of the unions to govern their own affairs. On the other hand, the unions do acquire exclusive rights under the Labour Relations Act, and to that extent have a public responsibility. On balance, it seems not unreasonable to require of the unions a minimum standard in keeping books and records. It would seem reasonable that members should be entitled to the same minimum rights as members of an incorporated no-share capital company governed by the Corporations Act. Some procedure for regular inspections would be necessary, and it may be that in larger unions a regular audit should be required.

Hiring practices

Another area of concern was the operation of hiring halls by the union locals. This is an old problem. The hiring hall is actually a work-referral system for construction workmen. It has been said that because of the intermittent nature of their business, contractors are unable to provide employment on a permanent basis. There has been some trend towards regular employment within the industry; we were told, for example, that in the marble, tile and terrazzo sector, about 70 per cent of the workers are now employed on a permanent basis, and when not required by their own employer may be placed on loan with other contractors. In the main,

however, the industry is unable to provide regular employment, and requires experienced workers on only an intermittent basis. It obtains them through the trade unions. The employee usually remains a member of the same union throughout his career, but moves from one employer to another as construction projects are started and finished.

In theory, by creating hiring halls the unions have been able to provide a valuable service to employers and employees. In practice, however, we found instances of abuse. Most employers were critical of the present system. There was evidence that: (1) discrimination was practised against both employers and employees in the placement of workers; (2) a monopoly was created by union-operated hiring halls, thereby promoting abuses; (3) the number of qualified tradesmen was deliberately limited to preserve the demand by creating an artificial shortage; (4) selection of employees was taken from the employer and given to the union; (5) job assignments on a fixed formula tended to destroy incentive on the part of the worker.

On the other side, cogent reasons were given for supporting the system of hiring halls. (1) It was the only alternative to employment on a regular basis, in an industry which required workers on a temporary basis for the duration of individual projects. (2) It enabled the unions to allocate employment on an orderly basis, with an impartial dispatcher making the assignments without discrimination. In this regard we heard no complaints from employees. (3) Collective agreements have modified the system to accommodate the requirements of both employees and employers. For example some allow for each party to designate one half of the employees on any job. The employer and the union alternate in selecting workers. (4) The union was particularly qualified to operate the hiring hall because of its intimate knowledge of the men and their qualifications. (5) Some employers preferred the union hiring hall over other methods of hiring because it supplied qualified workers at uniform wages and working conditions. (6) The hiring halls have been functioning effectively in a difficult industry. Abuses are the exception and not the rule.

In the construction industry the employees do not enjoy the security of employment that is found in other industries. The only permanent relationship is that established with the union. It is understandable that the unions would wish to provide their members with a system of hiring that would provide maximum job security. But privileges and obligations go together. The only opportunity for a tradesman to find work might be through his respective union and hiring hall: if a work application by a qualified tradesman is not accepted, that tradesman is denied his right to work.

Section 38 of The Labour Relations Act provides some protection for employees, and section 60 provides for fair representation of employees by the union. But what about the person who is still seeking to become an employee? In a case before the Ontario Labour Relations Board, A.J. Roberts and Plasterers Union Local 48 (File No: 4715-73-U, dated 20 March 1974), it was held that the scope of a trade union's duty of fair representation was restricted to employees in a bargaining unit. Equally, the opportunity for an employer to find workmen would be through the union and hiring hall. There must be some assurance that he will be treated fairly. I do not feel that a case has been made for removing the hiring hall from union control. But, in view of the fact that the operation of hiring halls by unions with closed shop collective agreements places them in a position of complete monopoly, it would seem to me that some form of public inspection would be justified. The records should at all times, be available to the union members, the employers, and the inspectors. There was a favourable response by a few unions appearing before the Commission to some degree of public supervision. It may prove sufficient in correcting some of the abuses. Further investigation and consideration are warranted.

Jurisdictional disputes

In a general sense, the Labour Relations Act, section 81, provides that the Board *may* inquire into a complaint that a union, etc., is requiring an employer, etc., to assign, or that an employer is assigning particular work to persons in a particular union or trade, rather than to persons in another union or trade. It further provides that the Board *shall* direct what the parties shall do, or refrain from doing, with respect to the assignment of work. The Board may make such directions binding as between the parties on other jobs. Section 124 provides for the designation of jurisdictional representatives in disputes over assignment of work, while section 81(3) and (4) provides for the notification of the representatives and their responsibility for meeting and endeavouring to settle. Section 81(14) provides that the Board shall not inquire into a complaint when a collective agreement between the parties involved provides for reference of work assignment disputes to another tribunal, but the parties are required to abide by the decisions of that tribunal. Other provisions will be discussed as they become relevant to particular problems.

Labour organization, in many other industries, tends to be on an industrial basis. In such cases, the factory or mine forms the unit. In the construction industry, we find that labour organization has continued along craft lines. The Labour Relations Act, section 6, preserves the right of a

craft union to be a unit appropriate for collective bargaining. Thus, jurisdictional disputes arise between competing unions.

Jurisdictional disputes are likely to be complicated in the construction industry because of the number and variety of trades involved. How best are the workers to be organized into unions? The proposal was made that one bargaining unit be established for each employer and that crafts be grouped as associations for standards, education, and discipline. It was argued in this connection that craft unions promote fragmentation of the work force and retard technological development. We know that some crafts have indeed been hard hit by such developments, for example, the plasterers, lathers, and tile workers. Where each trade bargains individually, there is competition for the work and ensuing jurisdictional disputes. This is alleviated to some extent by the development of union councils and regional bargaining. A separate bargaining unit for each employer would create chaos. There is no continuity of relations between the employer and the employees. The only lasting security an employee has is his union membership. This continues while he works for a succession of employers. It would be unreasonable to destroy that security.

Trade units for bargaining would be preferable, but these units should be enlarged to reduced the number and variety of collective agreements affecting the industry. These agreements should be made applicable to greatly enlarged bargaining regions. Hence province-wide and multi-trade bargaining should be encouraged.

The advance of technological changes must be recognized. Craft classifications can not remain static. Technological developments may affect existing crafts and create new ones. Some trades have taken this approach, while others have remained more dogmatic.

The adjudication of jurisdictional disputes has caused needless trouble and expense to both management and labour. The craft unions in Ontario are locals of international craft unions, with headquarters in Washington, DC. It is therefore natural that the Ontario scene be affected by US policies. Many Ontario locals of international unions specify in their collective agreements that the other tribunal (other than the OLRB) shall be the Impartial Jurisdictional Disputes Board in Washington. This board, formerly known as the National Joint Board, was created by the Building Trades Department of the AFL-CIO international organization in conjunction with employer associations to adjudicate jurisdictional disputes. It naturally has tended to preserve the existing crafts and slavishly to follow its previous decisions as reported in its 'green book.' In this it has been greatly influenced by the Carpenters, who were the largest union in the

Building Trades Department. The decisions of the Impartial Board have been criticized because they have not taken into account technological changes which affected the assignment of work. Nor have they considered how an assignment would affect the cost of a building. They have not recognized the existence of local differences in the jurisdiction habitually exercised by the crafts. Their rulings have not been enforced.

The Impartial Board was not open to independent unions and increasingly was not specified by locals of international unions other than the Carpenters. Many preferred to submit their disputes to the Labour Relations Board. In practice, the Impartial Board proved much faster than the Labour Relations Board in reaching decisions, and speed was important in these cases because of the limited duration of a construction job; but speed was not the only criterion. Contractors were anxious to reap the benefits of technological developments and to reduce building costs. They preferred the Labour Relations Board, who seemed to take these factors into consideration.

The criticism levelled at the Labour Relations Board procedure is that it is too slow and too expensive. The disputes are often bitter, hard fought battles between competing unions. Counsel are retained, much evidence is led on both sides, and the hearings become long, drawn-out affairs. This is especially true if the courts are used to interpret privative clauses and other such subtleties. The parties themselves are responsible for this expenditure of time and money, and should agree on some form of procedure for the disposition of many of these disputes. It may be that the government could assist in providing forums to which the participants may subscribe on some contractual basis. Proceedings could be simplified and made less costly. The use of such regional forums would reduce expenses and recognize the fact of regional differences in the jurisdiction of the trades. The parties have been making little effort to provide their own solutions; they have not even used the provisions of section 124. Jurisdictional representatives were seldom designated and, when designated, were not employed.

It may also be that the Board could adopt a system of using inspectors who would make on-site inquiries into jurisdictional disputes and render speedy decisions. These decisions could be open to appeal to the Board, but one might hope that any such appeals would be restricted to landmark cases.

Section 81(8) of the Labour Relations Act has been the source of considerable strife in the industry. It provides that the Board *may*, in the event of a strike or allegation of a threatened strike by reason of assignment of work, make an interim order. Section 81(9) permits a direction to cease and

desist; section 81(17) provides that compliance with such order or direction shall not be deemed a violation of any provision of the act, or of any collective agreement. The problem has arisen in different ways, but the thrust of the criticism is that the Board makes interim orders on the basis of the status quo. The final disposition may differ, but in the meantime the work has been completed with impunity. The matter was before the Board recently in *Northdown vs Carpenters' Local 18 and Lathers' Local 562 and Robertson-Yates* (28 June 1972, Labour Decisions 502-11-72, no. 16064). Here, the general contractor was bound by a collective agreement with the Carpenters to subcontract the disputed work to subcontractors having collective agreements with the Carpenters. The general contractor subcontracted the disputed work to a subcontractor who had a collective agreement with the Lathers. A majority decision held that the issue involved a contractual dilemma and not a work assignment dispute. It also made some interesting observations about the responsibilities of the parties concerned:

We recognize that this Board has an obligation to maintain industrial peace. We recognize further that there is an obligation on the industry to assist in maintaining industrial peace by conducting its affairs in an orderly and careful manner so as to avoid the tensions and conflicts that are already rampant in the construction industry. There must be some form of self-help or policing by the industry. This Board is not to be viewed as a panacea for the ills of the construction industry. We do not sit as Solomon ever ready to divide the baby. We expect that the parties will exercise some self-restraint in their affairs and not expect this Board to be a forum which absolves them from their excesses.

We are not prepared to make an order in the facts of this case. Under Section 81(1) we are given the power to direct what action, if any, the parties shall do or refrain from doing and assuming the facts as put forth by the parties this is a case where we would not be prepared to make any direction, and on that basis alone we are not prepared to proceed with the application.

There is no doubt that the inclusion of subcontracting restrictions in collective agreements militates against independent unions, as well as against other unions whose jurisdiction does not lend itself to collective agreements with general contractors. It has been argued that such clauses violate the freedom that every person has to join a trade union of his own choice and that every general contractor should have in the choice of a subcontractor.

On the other hand, it is stated that subcontract clauses are necessary. They stabilize the industry. They preserve the level of wages and working conditions that have been agreed upon in the collective agreement. Without this protection, work could be subcontracted to other firms at lower wages and working conditions.

Work assignments affect competing subcontractors as well as trade unions. Where the subcontractors have collective agreements with the same trade union, they compete on the basis of normal business criteria. But where their agreements are with competing unions, they often endeavour to use jurisdictional disputes to eliminate the competition. In such cases, they have been known to exert pressure on their unions to dispute a given work assignment. In some cases, work has been improperly assigned in the first instance, by the owner or architect, to reduce the cost of construction.

I find some merit in the following suggestions for improvement:

1 / That Section 81(1) be amended by providing that the Board 'may direct' instead of 'shall direct' with respect to the assignment of work. This would give the Board full authority to deal with applications.

2 / That allegations of 'imminent strikes' be eliminated from Section 81(8) to prevent collusive applications. It was suggested that such allegations are made to absolve the general contractor from a violation of the collective agreement.

3 / That subcontracting restrictions be eliminated from collective agreements and be replaced by provisions that would assure the maintenance of the standard of pay and working conditions set out in the master agreement.

4 / That a system be developed for the summary disposition of jurisdictional disputes.

Welfare funds

Most collective agreements provide for the creation of special welfare funds, through the payment of set sums by the employers for the benefit of the employees. This money is used to purchase for the employees, through insurance companies, such benefits as supplementary unemployment insurance, supplementary medical coverage, and often dental benefits. Trustees for the welfare funds are appointed to represent the employees and the employers. In practice we found that union officers became trustees for the employees, while officers of contractors associations became trustees for the employers. Administration firms were frequently engaged to receive the payments and record the credits in the names of the employees, and to

purchase the benefits agreed upon by the trustees. In each such case we found that the administration was properly carried out in accordance with the arrangements. We find, however, that there were abuses and deficiencies, as outlined in chapter 4. In addition, some aspects of the problem were brought to our attention by representatives of both labour and management.

In connection with the affairs of the Plasterers Local 117, we found that after the union had virtually disappeared, there remained in the hands of the administrator well over \$100,000. I endeavoured to have this money held in trust pending a decision as to the proper disposition of the funds. I have now been informed that the former members have retained counsel and that legal proceedings are being taken. In the meantime, the administrator holds the funds as the Trustee.

Briefly, the complaints about the Welfare Funds were as follows. (1) expenses paid to trustees for attendance at educational seminars are not warranted. Attendance at seminars twice a year, and year after year, can hardly be considered as necessary training for the purchase of insurance benefits. (2) The amounts paid on behalf of the employee represent part of the earnings of that employee. That benefit should, unquestionably, be vested in the employee on payment and should be portable from one fund to another, so that the employee, who earned it, would always benefit from it. (3) There were instances of delay and default in remittance by employers of the welfare fund payments. The administrators of the funds had no obligation to collect; they simply administered the funds remitted to them. (4) Union constitutions provided that members must be in good standing to benefit from the funds. This was a denial of the vesting and gave the union an unfair hold over the member. It was an interference with the member's right to join a union of his choice.

On the other side, however, are a number of positive attributes. (1) The employee benefits provided by the funds are the kind usually provided by employers in other industries. The temporary employer-employee relationship, which is characteristic of the construction industry, requires some plan to achieve these benefits for the employees of this industry. (2) The funds are properly administered by professional administrators, under the supervision of duly selected representatives of the interest parties. Abuses are the exception and not the rule. (3) Welfare fund plans are the result of collective bargaining and agreements can provide for portability and vesting when considered desirable. (4) Payments by employers can be supervised and penalties imposed for delinquent payments. (5) Each fund can best decide what is required for its own participants.

Unions were not unanimous in urging that welfare funds were desirable. We were told that many employees would prefer to have their wages increased by the amount allocated for the welfare fund. This would be a simple, practical solution. The employees could then, through group plans or otherwise, purchase such insurance coverage as they desired or, indeed, none at all. There are those who are of the opinion that given social legislation which provides unemployment insurance, health and welfare benefits, as well as other services on national, provincial and municipal levels, there now is little need for welfare funds.

One must recognize that in other branches of private industry employees do receive many so-called fringe benefits. To make available to the employees of the construction industry the same kinds of benefits, some form of coverage is necessary. Certainly welfare funds, in some form, should be continued. It would not be unreasonable, however, to make the system optional to the employee, and to provide some control.

Welfare Funds are at present administered by a number of private firms. It would seem to me that the administration could be more efficiently carried out by one government agency. It might very well be the suggested licence bureau of the construction industry. Records of employers and employees would already be available at that office. Supervision and control, with authority to discipline delinquent employers, would then be available.

An office of this kind could administer the fund for the entire construction industry on a province-wide basis. It would be operated for the benefit of the employees. The cost of administration would be lowered, and the increased buying power would presumably reduce the premiums required for the benefits to be provided. Even under the present system, transactions are processed through computers: there should thus be no problem in organizing the administrative office on such a province-wide basis.

Such an agency would assist in putting into effect the recommendations contained in the Musselman Report (appendix 92). It could provide the control of contributions and payments and eliminate duplication of administration. But most important, it would establish the machinery for vesting and portability. With all welfare funds being cleared through a common administrative office, it would be a comparatively simple matter to record the benefits accruing to each employee. To a very limited extent, portability has already been achieved through reciprocal arrangements between funds. A common administrator would be a much more efficient medium.

In any event, it is my view that the money paid into welfare funds to the

credit of employees remains the property of the respective employees and should be completely portable. This right should be guaranteed by legislation. Unions should not have the right to deprive an employee of the benefits earned by him simply because he ceases to be a member in good standing in the union.

A unified administration plan now operates in the province of Quebec. In 1971, all construction industry welfare plans were merged, when province-wide bargaining was enacted. I am advised that the plan is highly rated.

I envisage the development of an overall welfare fund along the lines of OHIP. Payments would be made by employers, but might also be made by employees on an individual basis. The OHIP experience would greatly assist in developing this service.

Trusteeship

Trusteeship is the unilateral assumption of supervision or control of a subordinate trade union by a parent organization. As a rule, international trade unions exert very little control over Canadian locals. Although they do have the constitutional right to place their locals under trusteeship, they have seldom exercised that right in Ontario. Normally one might expect it when the local proposes to break away from the parent body. We have seen how it was improperly used in the case of the Plasterers Local 117.

The Labour Relations Act, section 73, provides that when trusteeship has been imposed, there shall, within 60 days, be filed with the Board a statement, verified by affidavit, setting out the terms under which control is to be exercised. The Board is further given power to require additional information. The trusteeship may last for one year and continue for an additional year with the consent of the Board. The section does not provide a penalty for failure to comply, although it may be considered a contravention of a provision of the Act, and therefore an offence pursuant to section 85(1).

The Board has not been involved with trusteeship matters to any extent. Local 117 was placed in trusteeship on three separate occasions. Such action, if taken in bad faith, could circumvent the provisions of section 73(2) requiring the consent of the Board for a continuation of trusteeship. It was suggested to me by one of the major unions that the Board should take a greater interest in trusteeships and that the consent of the Board should be made mandatory before any trusteeship could be imposed. If such a provision had been in force, it is doubtful whether the Board would have permitted trusteeship in the instance referred to earlier. It appeared to me

that trusteeship in that instance was rather arbitrarily imposed. It resulted in the destruction of the local.

It would seem reasonable to have legislation provide for validation of trusteeship by the Board within a specified short time after it is imposed. In that way, the parent union, for example, could still act quickly when necessary, but without jeopardizing the rights of the members. The members would have their day in court, at the subsequent hearing for validation.

An industrial inquiry commission may now be established pursuant to section 34, but its powers are limited to those of a conciliation board. It would not be appropriate for extraordinary situations.

There have been times, fortunately few, when it has been necessary to impose some form of public trusteeship upon a union. The Report of Industrial Inquiry on the Disruption of Shipping by the Honourable T.G. Norris, 1963, recommended special federal legislation putting the Maritime transportation unions in Canada under government trusteeship. That recommendation was duly implemented. There may be times in the affairs of a union when drastic steps must be taken to preserve the union and its assets for the members, and in the public interest. In our Inquiry there were revealed many instances of illegal activities by union agents and officers, which were detrimental to the unions and to the industry. In the United States, the Landrum-Griffin Act provides that persons convicted of offences may not be eligible for union office for a period of five years. Bearing in mind that unions exercise a public trust in representing the employees, it may not be unreasonable to provide some form of public trusteeship when necessary. This should be an extraordinary remedy available only on the application of a fixed substantial portion, for example 25 per cent, of the members. It would be granted only if the Board were satisfied that the existence of the union were threatened. This would provide the members with some safeguard and might have a salutary effect upon union agents and officers. It might also be effective when a union is threatened by an improper trusteeship.

PUBLIC PARTICIPATION

The community has a vital basic interest in the peaceful and efficient settlement of management and labour difficulties and abuses. The public, represented by the government, participates through legislation. Some problems, however, are exacerbated by existing legislation and practice, as we have seen. While it was generally accepted that the legislative provisions and the Labour Relations Board functioned reasonably well, it was sug-

gested that certain areas could be improved. I would like to review these areas on the basis of the material brought to our attention.

We start with the proposition that an employee may join the union of his choice. Then certification gives one union the exclusive right to represent all the employees in a determined unit. The union and the employer must now bargain in good faith to arrive at a collective agreement. Bargaining is governed by a conciliation timetable. Thereafter, the collective agreement provides for settlement of disputes by arbitration. Somewhere along the line, everyone has exchanged some freedom of choice for a greater collective good. It is in this framework that the problems will be reviewed.

Labour Relations Board

There were complaints by both labour and management about the operation of the Labour Relations Board. Section 91(5) provides for a division of the Board to be designated as the Construction Industry Panel. It was pointed out that because the problems of the construction industry are so different from those of other industries, the Board members, on intermittent assignments to this division, did not develop the expertise which would come from a permanent assignment. A permanent member might present some disadvantages, notably that applicants would be locked into fixed opinions and attitudes which would likely develop over a period of time. However, the experience of the Supreme Court of Ontario, in designating one judge to bankruptcy matters, has been good. It is usual, in all courts, to assign judges to cases on the basis of experience and expertise. It might be useful to have a permanent vice-chairman for the construction industry division. Other members could be assigned on an intermittent basis, as required.

A separate Board for the construction industry was also suggested. I feel that there is something to be gained by using the same Board as other industries. The exposure to other industries and the application of their experiences should contribute to the normalization of the construction industry. A permanent vice-chairman would become sufficiently sensitive to the peculiar problems of the construction industry.

I was told that the procedures before the Board had become very technical and complex, that it was necessary to be represented by legal counsel, and that proceedings had become very expensive. This is far from the original concept of the Board, which I understood was formed to provide a practical approach to labour problems. Section 103 provides that no proceedings are invalid by reason of defect in form or technical irregu-

larity. Then Section 91(3) provides for rules to expedite proceedings. Something should be done to bring the Board back to its original concept.

Certification

The certification procedures came in for some criticism. Section 7(2) provides for the taking of a representative vote if at least 35 per cent of the employees are members of the union. The Board may certify a union without a vote if at least 65 per cent of the employees are members. It seems reasonable that there should be a sufficient demonstration of support to indicate the viability of the union. But it has been urged that a 65 per cent requirement places too great a burden upon the union. The employees, especially in smaller firms, are subject to employer influence, and the proportion may be affected by as few as one or two employees.

Section 7(4) provides for certification without a vote when more than 50 per cent of the employees are members, if the Board is satisfied that a vote will not disclose the true wishes of the employees. This is, however, of little comfort because of the subjective nature of such influence. In other jurisdictions, the figure for certification without a vote is 50 per cent. It seems to me to be more in line with the spirit of the legislation and the circumstances of the parties to reduce the percentage at which the Board may certify without a vote from 65 to 50. The lowered requirement would eliminate procedural delays in many cases.

We were told that it was often difficult to obtain the information required for certification and accreditation. A licensing system would provide that information.

Some dissatisfaction was expressed with existing bargaining units. Bargaining units are determined by the Board pursuant to section 108. I believe that it would benefit the industry to have fewer bargaining units. This could be achieved, naturally, by enlarging the geographical areas. I expect the Board would respond to the expressed wishes of the parties in that respect.

We found that voluntary recognition, pursuant to section 15(3) was fairly common. In such cases, the employer required a steady supply of workers who were under the control of the union. Such certification would require a minimum of procedural delay. New applications for certification are eliminated by section 110, which extends the validity of a collective agreement to cover periods when there are no employees.

Some objected to the provision for a fixed date for establishing the number of employees. Section 108(2) applies only to the construction industry and provides that increases in the number of employees after the application for certification, are not to be taken into consideration. That

strikes me as a sensible provision. The temporary work forces which are characteristic of this industry would make any other arrangement impractical.

It may be that single-member sittings of the Board could be used in some instances. But one should not lose sight of the fact that the Board was created as a tripartite tribunal deliberately to involve labour, management, and the public. A complete shift to single-member sittings would change the character of the Board. A change of that kind would not be justified.

Accreditation

Many employers were grouped into associations. Section 43(1) and (2) provide that a collective agreement is binding upon those members on whose behalf an organization has bargained. There was originally no discipline for non-members, however. To cope with this weakness, legislation was introduced covering the construction industry and providing for accreditation of employers' associations. As a result, when a union or council of unions has entered into a collective agreement with more than one employer covering a unit of employees, an employers' organization can apply to the Board to be accredited as the bargaining agent for all employers, in the sector and in the region specified, who are in a bargaining relationship, either through voluntary recognition or certification, with the union. The intention was to do for the employers what certification had done for the employees. By accreditation, the association becomes the sole bargaining agent for all the employers in the unit. All the employers and the employees are bound by the collective agreement (section 117). Individual bargaining was prohibited (section 119(1)), as was the supply of employees during a legal strike or lock-out (section 119(2)). But section 119(3) still permits employers to continue their operation during a strike or a lock-out.

In principle many employers have expressed themselves in favour of accreditation. In practice, however, they have not used it to any extent. There are comparatively few accredited associations and resulting collective agreements. During the course of our inquiry, we heard the following criticisms. (1) Accreditation is limited to those situations where there has already been certification, or voluntary recognition. This puts the initiative on one side only. (2) Section 115 requires a double majority. For accreditation the organization must represent a majority of the employers who represent a majority of the employees. Considerable difficulty has been experienced in ascertaining the number of employers and employees in the sector and the region. As previously indicated, information through licensing would help resolve this problem. (3) Employers under accreditation

may continue to operate during a strike or a lock-out (section 119(3)). This creates a lack of discipline for a united front when most needed. (4) Accreditation has produced some unforeseen difficulties. One instance was brought to our attention. At the time of accreditation another employers' association had a collective agreement with the provincial council of the union concerned. This created a problem for the employer whose agreement with the provincial council differed from the other agreement with the union. The incident points up the desirability of fewer well-defined employer associations and labour councils. It is one of the many factors to be taken into consideration on an application for accreditation.

Accreditation can have a stabilizing effect upon the industry. It gives the employers' association the authority required for a united front in negotiations. It combats 'leap frogging,' which means isolating and negotiating with the weaker employer units and then using the agreements thus obtained as precedents.

Arbitration

Both labour and management complained that current grievance and arbitration procedures are not suitable for the construction industry. There is obviously something wrong when we find that in Ontario the construction industry, which employs about 7 per cent of the total work force, generates only about 1 per cent of the arbitrations. The latter figure is based on the study of arbitration awards filed with the Labour, Management Arbitration Commission of the Department of Labour, between 1 September 1971 and 1 September 1973. The unions, apparently frustrated by the slowness and expense of the arbitration procedures, have resorted to the use of wildcat strikes and work stoppages. Matters have now reached the stage where mere threats of such activities are sufficient. Decisions are reached on the basis of expediency. But legislation provides that every collective agreement must provide for the final and binding settlement by arbitration of all differences arising from the interpretation, application, administration, or alleged violation of the agreement (section 37(1)); and that a grievance procedure must be provided and after it has been exhausted, an arbitration board may be appointed (section 37(2)).

The delays and expense of arbitration awards, in general, were revealed in a recent study (*Justice Delayed, Justice Denied: the Arbitration Process in Ontario*, Howard Goldblatt, 1974) which also confirmed what had been known, namely that a single arbitrator was more efficient than a tripartite arbitration board. I am impressed by the Nova Scotia legislation for arbitration in the construction industry. It provides: (1) where a dispute or

difference arises, which the parties are unable to resolve, the parties to the dispute or difference shall agree, by midnight of the day on which the dispute or difference arises, upon the appointment of a single arbitrator to arbitrate the dispute or difference; (2) the decision of the arbitrator shall be rendered within forty-eight hours of the time of appointment unless an extension is agreed upon by the parties.

That is the kind of speedy arbitration required in the construction industry. It should be mandatory unless the parties agree upon some other sensible arrangement.

Conciliation

Members of the construction industry were critical of the conciliation process. Apparently it has not been useful to the industry. Section 15(1) provides for the appointment of a conciliation officer by the minister, at the request of either party to a dispute. It might be more efficient to provide for an automatic appointment after fifteen days. There were complaints that conciliators did not possess the special knowledge required for this industry, and that they did not appear to have sufficient time available to effect an agreement.

The fact of conciliation must, in itself, have some effect upon bargaining. The problems are difficult and challenging. The number and variety of bargaining units make matters worse. Different expiry dates cause trouble because management and labour deliberately delay negotiations to see what others do first. A common expiry date with fixed times for the succeeding steps would be helpful in conciliation proceedings, as would larger bargaining units.

Effective conciliation can be helpful in these critical times. The limited duration of each project has an inflationary tendency, for the completion of the current project is the paramount concern of any employer. Agreements negotiated in that climate are then used in subsequent negotiations, when in fact they are not really representative. Larger regions, fewer agreements, common expiry dates, and skilled negotiators would help considerably.

Enforcement

In connection with enforcement, section 79 provides that the Board may authorize inquiries into certain complaints as set out, and section 85 creates offences for contraventions of the provisions of the Act. Pursuant to Section 90, there can be no prosecution without the consent of the Board. The practice has been to leave enforcement to the parties themselves. Not only are the parties loath to take the initiative, but the final settlement of

disputes usually includes amnesty for all violations and offences to date. The question then arises as to what role the government should play in the enforcement of the act. Undoubtedly there are violations that should be pursued in the public interest, while others are of concern only to the immediate parties.

I believe that there is much to be said for the appointment of general counsel to the Labour Relations Board. He could initiate proceedings on behalf of the Board when deemed advisable in the public interest. I would expect that the possibility of such prosecutions would have a deterrent effect.

Construction Industry Review Panel

One of the more promising recent developments was the creation in 1972 of the construction industry review panel. It is comprised of representatives of labour and management. The purpose of the panel is to reduce areas of conflict. Problems are discussed and settled before they give rise to conflicts. A neutral chairman and partisan members are appointed by the government, again to provide tripartite participation. This brings us back to the primary responsibility of labour and management to solve their own problems. The experience of working together should be encouraged and broadened. There should be more discussions between management and labour prior to the commencement of any major project. I know that the panel has discussed some of the problems raised in this report and has already made some recommendations, which should prove helpful. I believe that its work should be supported by labour, management, and the government. I suggest that the members serve for a limited period of time so that other representatives of management and labour may gain valuable experience in working together for the common good.

SUMMARY OF RECOMMENDATIONS AND SUGGESTIONS

I The appropriate law enforcement agencies are, naturally, expected to take whatever actions and proceedings they may deem appropriate in the light of the many incidents of illegal activities revealed during the investigation.

II The shooting incidents involving the Acme premises and Bruno Zanini, together with the indiscriminate possession of arms as revealed in the investigation, suggests the necessity for more rigid arms control.

III The bombing incidents, coupled with the casual possession of dynamite,

suggests the necessity for more rigid control of explosives. Serious consideration might well be given to the suggestions in appendix 26.

iv The abuses shown to have taken place on the part of both management and labour, indicate the necessity for measures of control and discipline, but having investigated only a portion of the industry, I am unable to make specific recommendations that would affect the entire construction industry.

v I would, however, make the following suggestions for further consideration:

1 / That contractors and subcontractors be licensed with a view to establishing responsible identities.

2 / That supervised bid depositories be established in co-operation with contractors and subcontractors.

3 / That the provisions of the Labour Relations Act be enforced in the public interest.

4 / That a minimum standard be set for union books and records.

5 / That the operation of hiring halls in accordance with established practice be continued with records open to inspection by employees, employers, and public inspectors. An industry-wide study should be made.

6 / That inspectors be added to the staff of the Labour Relations Board to speed up the decision process in jurisdictional disputes. The parties to have the option of providing summary procedures of their own by collective agreement.

7 / That jurisdiction restrictions in master agreements to specific trade unions be replaced by other adequate safeguards.

8 / That welfare plans be administered by one province-wide agency. That participation in welfare plans be made optional on the part of employees. That payments made for the benefit of employees be vested in them when received and become portable. That contributions by employers be supervised and enforced. That fees and expenses for trustees be limited in amount.

9 / That the Labour Relations Board be given jurisdiction to validate trusteeships imposed by parent unions and, in other instances, to create trusteeships in the interests of the members.

10 / That a permanent vice-chairman be named for the Construction Industry Panel of the Labour Relations Board.

11 / That the minimum membership requirement of a union for certification without a vote be lowered from 65 per cent to 50 per cent of the employees in a bargaining unit.

12 / That arbitration procedures provide for a single arbitrator and specific

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time limits for the appointment of the arbitrator and the decision.

13 / That conciliation procedures be subject to a prescribed timetable and a sufficient number of conciliators be made available to carry out the duties.

14 / That the number and variety of bargaining units be reduced and that province-wide and multi-trade bargaining be encouraged.

15 / That a general counsel with power to initiate proceedings when necessary in the public interest be appointed to the Labour Relations Board to ensure the equitable enforcement of labour legislation.

16 / That the Construction Industry Review Panel established by the Department of Labour in 1972 be supported.

17 / That a dynamic approach to labour-management relations in the construction industry be maintained to keep pace with technological and sociological changes.

All of which is respectfully submitted.

Harry Waisberg
Commissioner

